Virginia's Crime Victim and Witness Rights Act

and Other Victims' Rights Related Legislation

Department of Criminal Justice Services

Victims Services Section

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Crime Victim And Witness Rights Act

CHAPTER 687

An Act to amend and reenact §§ 16.1-309.1, 19.2-11.1, 19.2-265.01, 19.2-299, 19.2-299.1, 19.2-305.1, 53.1-155 and 53.1-160 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 1.1 of Title 19.2 a section numbered 19.2-11.01 and by adding in Article 7 of Chapter 3 of Title 53.1 a section numbered 53.1-133.02, relating to the rights of crime victims and witnesses; penalty.

[H 2257]

Approved March 26, 1995

§ 16.1-309.1. Exception as to confidentiality.

A. Notwithstanding any other provision of this article, where consideration of public interest requires, the judge shall make available to the public the name and address of a juvenile and the nature of the offense for which a juvenile has been adjudicated delinquent (i) for an act which would be a Class 1, 2 or 3 felony, forcible rape, robbery or burglary or a related offense as set out in Article 2 (§ 18.2-89 et seq.) of Chapter 5 of Title 18.2 if committed by an adult or (ii) in any case where a juvenile is sentenced as an adult in circuit court.

B. 1. At any time prior to disposition, if a juvenile, charged with a delinquent act which would be forcible rape, robbery, burglary or a related offense as set out in Article 2 (§ 18.2-89 et seq.) of Chapter 5 of Title 18.2 or a Class 1, 2 or 3 felony if committed by an adult, becomes a fugitive from justice, the attorney for the Commonwealth or, upon notice to the Commonwealth's attorney, the Department of Juvenile Justice or a locally operated court services unit, may petition the court having jurisdiction of the offense to authorize public release of the juvenile's name, age, physical description and photograph, the charge for which he is sought or for which he was adjudicated and any other information which may expedite his apprehension. Upon a showing that the juvenile is a fugitive and for good cause, the court shall order release of this information to the public.

2. After final disposition, if a juvenile (i) found to have committed a delinquent act which would be forcible rape, robbery, burglary or a related offense as set out in Article 2 (§ 18.2-89 et seq.) of Chapter 5 of Title 18.2 or a Class 1, 2 or 3 felony if committed by an adult becomes a fugitive from justice or (ii) who has been committed to the Department of Juvenile Justice pursuant to subdivision 14 of § 16.1-278.8 or § 16.1-285.1 becomes a fugitive from justice by escaping from a facility operated by or under contract with the Department or from the custody of any employee of such facility, the Department may release to the public the juvenile's name, age, physical description and photograph, the charge for which he is sought or for which he was committed, and any other information which may expedite his apprehension. The Department shall promptly notify the attorney

for the Commonwealth of the jurisdiction in which the juvenile was tried whenever information is released pursuant to this subdivision. If a juvenile specified in clause (i) being held after disposition in a secure facility not operated by or under contract with the Department becomes a fugitive by such escape, the attorney for the Commonwealth of the locality in which the facility is located may release the information as provided in this subdivision.

C. Whenever a juvenile fourteen years of age or older is charged with a delinquent act that would be a criminal violation of Article 2 (§ 18.2-38 et seq.) of Chapter 4 of Title 18.2, a felony involving a weapon, a felony violation of Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, or an "act of violence" as defined in subsection A of § 19.2-297.1 if committed by an adult, the judge may, where consideration of the public interest requires, make the juvenile's name and address available to the public.

D. Upon the request of a victim of a delinquent act which would be a felony if committed by an adult, the court may order that such victim be informed of the charge or charges brought, the findings of the court, and the disposition of the case. For purposes of this section, "victim" shall be defined as in § 19.2-11.01.

E. Upon request, the judge or clerk may disclose if an order of emancipation of a juvenile pursuant to § 16.1-333 has been entered, provided (i) the order is not being appealed, (ii) the order has not been terminated, or (iii) there has not been a judicial determination that the order is void ab initio.

F. Notwithstanding any other provision of law, a copy of any court order that imposes a curfew or other restriction on a juvenile may be provided to the chief law-enforcement officer of the county or city wherein the juvenile resides. The chief law-enforcement officer shall only disclose information contained in the court order to other law-enforcement officers in the conduct of official duties.

(1979, c. 94; 1981, c. 307; 1986, c. 506; 1988, c. 749; 1993, c. 297; 1994, cc. 499, 542; 1995, cc. 558, 687, 804; 1997, cc. 434, 452; 1999, c. 710; 2000, cc. 563, 603.)

§ 19.2-11.01. Crime victim and witness rights.

A. In recognition of the Commonwealth's concern for the victims and witnesses of crime, it is the purpose of this chapter to ensure that the full impact of crime is brought to the attention of the courts of the Commonwealth; that crime victims and witnesses are treated with dignity, respect and sensitivity; and that their privacy is protected to the extent permissible under law. It is the further purpose of this chapter to ensure that victims and witnesses are informed of the rights provided to them under the laws of the Commonwealth; that they receive authorized services as appropriate; and that they have the opportunity to be heard by law-enforcement agencies, attorneys for the Commonwealth, corrections agencies and the judiciary at all critical stages of the criminal justice process to the extent permissible under law. Unless otherwise stated and subject to the provisions of § 19.2-11.1, it shall be the responsibility of a locality's crime victim and witness assistance program to provide the information and assistance required by this chapter.

Following a crime, law-enforcement personnel shall provide the victim with a standardized form listing the specific rights afforded to crime victims. The form shall

include a telephone number by which the victim can receive further information and assistance in securing the rights afforded crime victims.

§19.2-11.01 A 1. Victim and witness protection.

a. In order that victims and witnesses receive protection from harm and threats of harm arising out of their cooperation with law-enforcement, or prosecution efforts, they shall be provided with information as to the level of protection which may be available pursuant to § 52-35 or to any other federal, state or local program providing protection, and shall be assisted in obtaining this protection from the appropriate authorities.

b. Victims and witnesses shall be provided, where available, a separate waiting area during court proceedings that affords them privacy and protection from intimidation.

§19.2-11.01 A 2. Financial assistance.

a. Victims shall be informed of financial assistance and social services available to them as victims of a crime, including information on their possible right to file a claim for compensation from the Crime Victims' Compensation Fund pursuant to Chapter 21.1 (§ 19.2-368.1 et seq.) of this title and on other available assistance and services.
b. Victims shall be assisted in having any property held by law-enforcement agencies for evidentiary purposes returned promptly in accordance with §§ 19.2-270.1 and 19.2-270.2.
c. Victims shall be advised that restitution is available for damages or loss resulting from an offense and shall be assisted in seeking restitution in accordance with §§ 19.2-305, 19.2-305.1, Chapter 21.1 (§ 19.2-368.1 et seq.) of this title, Article 21 (§ 58.1-520 et seq.) of Chapter 3 of Title 58.1, and other applicable laws of the Commonwealth.

§19.2-11.01 A 3. Notices.

a. Victims and witnesses shall be (i) provided with appropriate employer intercession services to ensure that employers of victims and witnesses will cooperate with the criminal justice process in order to minimize an employee's loss of pay and other benefits resulting from court appearances and (ii) advised that pursuant to § 18.2-465.1 it is unlawful for an employer to penalize an employee for appearing in court pursuant to a summons or subpoena.
b. Victims shall receive advance notification when practicable from the attorney for the Commonwealth of judicial proceedings relating to their case and shall be notified when practicable of any change in court dates in accordance with § 19.2-265.01 if they have provided their names, current addresses and telephone numbers.
c. Victims shall receive notification, if requested, subject to such reasonable procedures as the Attorney General may require pursuant to § 2.2-511, from the Attorney General of the filing and disposition of any appeal or habeas corpus proceeding involving their case.
d. Victims shall be notified by the Department of Corrections or a sheriff or jail superintendent in whose custody an escape, change of name, transfer, release or discharge of a prisoner occurs pursuant to the provisions of §§ 53.1-133.02 and 53.1-160 if they have provided their names, current addresses and telephone numbers in writing.

e. Victims shall be advised that, in order to protect their right to receive notices and offer input, all agencies and persons having such duties must have current victim addresses and telephone numbers given by the victims.

§19.2-11.01 A 4. Victim input.

a. Victims shall be given the opportunity, pursuant to § 19.2-299.1, to prepare a written victim impact statement prior to sentencing of a defendant and may provide information to any individual or agency charged with investigating the social history of a person or preparing a victim impact statement under the provisions of §§ 16.1-273 and 53.1-155 or any other applicable law.
b. Victims shall have the right to remain in the courtroom during a criminal trial or proceeding pursuant to the provisions of § 19.2-265.01.
c. On motion of the attorney for the Commonwealth, victims shall be given the opportunity, pursuant to §§ 19.2-264.4 and 19.2-295.3, to testify prior to sentencing of a defendant regarding the impact of the offense.

d. In a felony case, the attorney for the Commonwealth, upon the victim's written request, shall consult with the victim either verbally or in writing (i) to inform the victim of the contents of a proposed plea agreement and (ii) to obtain the victim's views concerning plea negotiations. However, nothing in this section shall limit the ability of the attorney for the Commonwealth to exercise his discretion on behalf of the citizens of the Commonwealth in the disposition of any criminal case. The court shall not accept the plea agreement unless it finds that, except for good cause shown, the Commonwealth has complied with clauses (i) and (ii). Good cause shown shall include, but not be limited to, the unavailability of the victim due to incarceration, hospitalization, failure to appear at trial when subpoenaed, or change of address without notice.

Upon the victim's written request, the victim shall be notified in accordance with subdivision A 3 b of any proceeding in which the plea agreement will be tendered to the court.

The responsibility to consult with the victim under this subdivision shall not confer upon the defendant any substantive or procedural rights and shall not affect the validity of any plea entered by the defendant.

§19.2-11.01 A 5. Courtroom assistance.

a. Victims and witnesses shall be informed that their addresses and telephone numbers may not be disclosed, pursuant to the provisions of §§ 19.2-11.2 and 19.2-269.2, except when necessary for the conduct of the criminal proceeding.
b. Victims and witnesses shall be advised that they have the right to the services of an interpreter in accordance with §§ 19.2-164 and 19.2-164.1.
c. Victims and witnesses of certain sexual offenses shall be advised that there may be a closed preliminary hearing in accordance with § 18.2-67.8 and, if a victim was fourteen years of age or younger on the date of the offense and is sixteen or under at the time of the trial, or a witness to the offense is fourteen years of age or younger at the time of the trial, that two-way closed-circuit television may be used in the taking of testimony in accordance with § 18.2-67.9.

§19.2-11.01 B. Definition of "Victim"

B. For purposes of this chapter, "victim" means (i) a person who has suffered physical, psychological or economic harm as a direct result of the commission of a felony or of assault and battery in violation of §§ 18.2-57, 18.2-57.1 or § 18.2-57.2, stalking in

violation of § 18.2-60.3, sexual battery in violation of § 18.2-67.4, attempted sexual battery in violation of § 18.2-67.5, maiming or driving while intoxicated in violation of § 18.2-51.4 or § 18.2-266, (ii) a spouse or child of such a person, (iii) a parent or legal guardian of such a person who is a minor, or (iv) a spouse, parent, sibling or legal guardian of such a person who is physically or mentally incapacitated or was the victim of a homicide; however, "victim" does not mean a parent, child, spouse, sibling or legal guardian who commits a felony or other enumerated criminal offense against a victim as defined in clause (i) ~~of this subsection~~.

§19.2-11.01 C. Duty to ensure that victims receive information and services

C. Officials and employees of the judiciary, including court services units, law-enforcement agencies, the Department of Corrections, attorneys for the Commonwealth and public defenders, shall be provided with copies of this chapter by the Department of Criminal Justice Services or a crime victim and witness assistance program. Each agency, officer or employee who has a responsibility or responsibilities to victims under this chapter or other applicable law shall make reasonable efforts to become informed about these responsibilities and to ensure that victims and witnesses receive such information and services to which they may be entitled under applicable law, provided that no liability or cause of action shall arise from the failure to make such efforts or from the failure of such victims or witnesses to receive any such information or services.

(1995, c. 687; 1996, c. 546; 1997, c. 691; 1998, c. 485; 1999, cc. 668, 702, 844; 2000, cc. 272, 827; 2001, cc. 410, 530, 549.)

§ 19.2-11.1. Establishment of crime victim-witness assistance programs; funding; minimum standards.

Any local governmental body which establishes, operates and maintains a crime victim and witness assistance program, whose funding is provided in whole or part by grants administered by the Department of Criminal Justice Services pursuant to § 9.1-104, shall operate the program in accordance with guidelines which shall be established by the Department to implement the provisions of this chapter and other applicable laws establishing victims' rights.

(1988, c. 542; 1994, cc. 361, 598; 1995, c. 687; 1996, c. 545.)

§ 19.2-265.01. Victims, certain members of the family and support persons not to be excluded.

During the trial of every criminal case and in all court proceedings attendant to trial, whether before, during or after trial, including any proceedings occurring after an appeal by the defendant or the Commonwealth, at which attendance by the defendant is permitted, whether in a circuit or district court, any victim as defined in § 19.2-11.01 may remain in the courtroom and shall not be excluded unless the court determines, in its discretion, the presence of the victim would impair the conduct of a fair trial. In any case

involving a minor victim, the court may permit an adult chosen by the minor to be present in the courtroom during any proceedings in addition to or in lieu of the minor's parent or guardian.

The attorney for the Commonwealth shall give prior notice when practicable of such trial and attendant proceedings and changes in the scheduling thereof to any known victim and to any known adult chosen in accordance with this section by a minor victim, at the address or telephone number, or both, provided in writing by such person.

(1993, cc. 447, 452; 1994, cc. 361, 598; 1995, c. 687; 1996, c. 546; 1999, c. 844; 2000, c. 339.)

§ 19.2-299. Investigations and reports by probation officers in certain cases.

A. When a person is tried in a circuit court (i) upon a charge of assault and battery in violation of ~~§§ 18.2-57, 18.2-57.1~~§ 18.2-57 or § 18.2-57.2, stalking in violation of § 18.2-60.3, sexual battery in violation of § 18.2-67.4, attempted sexual battery in violation of § 18.2-67.5, or~~maiming or~~ driving while intoxicated in violation of ~~§ 18.2-51.4 or~~ § 18.2-266, and is adjudged guilty of such charge, the court may, or on motion of the defendant shall, or (ii) upon a felony charge not set forth in subdivision (iii) below, the court may when there is a plea agreement between the defendant and the Commonwealth and shall when the defendant pleads guilty without a plea agreement or is found guilty by the court after a plea of not guilty, or (iii) the court shall when a person is charged and adjudged guilty of a felony violation, or conspiracy to commit or attempt to commit a felony violation, of §§ 18.2-61, 18.2-63, 18.2-64.1, 18.2-64.2, 18.2-67.1, 18.2-67.2, 18.2-67.2:1, 18.2-67.3, 18.2-67.4:1, 18.2-67.5:1, 18.2-355, 18.2-356, 18.2-357, 18.2-358, 18.2-361, 18.2-362, 18.2-366, 18.2-367, 18.2-368, 18.2-370, 18.2-370.1, or § 18.2-370.2, or any attempt to commit or conspiracy to commit any felony violation of §§ 18.2-67.5, 18.2-67.5:2, or § 18.2-67.5:3, direct a probation officer of such court to thoroughly investigate and report upon the history of the accused, including a report of the accused's criminal record as an adult and available juvenile court records, and all other relevant facts, to fully advise the court so the court may determine the appropriate sentence to be imposed. The probation officer, after having furnished a copy of this report at least five days prior to sentencing to counsel for the accused and the attorney for the Commonwealth for their permanent use, shall submit his report in advance of the sentencing hearing to the judge in chambers, who shall keep such report confidential. The probation officer shall be available to testify from this report in open court in the presence of the accused, who shall have been advised of its contents and be given the right to cross-examine the investigating officer as to any matter contained therein and to present any additional facts bearing upon the matter. The report of the investigating officer shall at all times be kept confidential by each recipient, and shall be filed as a part of the record in the case. Any report so filed shall be sealed upon the entry of the sentencing order by the court and made available only by court order, except that such reports or copies thereof shall be available at any time to any criminal justice agency, as defined in § 9.1-101, of this or any other state or of the United States; to any agency where the accused is referred for treatment by the court or by probation and parole services; and to counsel for any person

who has been indicted jointly for the same felony as the person subject to the report. Any report prepared pursuant to the provisions hereof shall without court order be made available to counsel for the person who is the subject of the report if that person is charged with a felony subsequent to the time of the preparation of the report. The presentence report shall be in a form prescribed by the Department of Corrections. In all cases where such report is not ordered, a simplified report shall be prepared on a form prescribed by the Department of Corrections.

B. As a part of any presentence investigation conducted pursuant to subsection A when the offense for which the defendant was convicted was a felony, the court probation officer shall advise any victim of such offense in writing that he may submit to the Virginia Parole Board a written request (i) to be given the opportunity to submit to the Board a written statement in advance of any parole hearing describing the impact of the offense upon him and his opinion regarding the defendant's release and (ii) to receive copies of such other notifications pertaining to the defendant as the Board may provide pursuant to subsection B of § 53.1-155.

C. As part of any presentence investigation conducted pursuant to subsection A when the offense for which the defendant was convicted was a felony drug offense set forth in Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, the presentence report shall include any known association of the defendant with illicit drug operations or markets.

D. As a part of any presentence investigation conducted pursuant to subsection A, when the offense for which the defendant was convicted was a felony, not a capital offense, committed on or after January 1, 2000, the defendant shall be required to undergo a substance abuse screening pursuant to § 18.2-251.01.

(Code 1950, § 53-278.1; 1952, c. 233; 1972, c. 516; 1974, c. 121; 1975, cc. 371, 495; 1979, c. 286; 1980, c. 733; 1981, c. 263; 1983, c. 541; 1987, c. 676; 1989, c. 169; 1991, cc. 43, 229; 1992, c. 77; 1993, cc. 466, 492; 1994, 2nd Sp. Sess., cc. 1, 2; 1995, cc. 687, 778; 1997, c. 691; 1998, cc. 783, 840; 1999, cc. 891, 903, 913; 2001, c. 647.)

§ 19.2-299.1. When Victim Impact Statement required; contents; uses.

The presentence report prepared pursuant to § 19.2-299 shall, with the consent of the victim, as defined in § 19.2-11.01, in all cases involving offenses other than capital murder, include a Victim Impact Statement. Victim Impact Statements in all cases involving capital murder shall be prepared and submitted in accordance with the provisions of § 19.2-264.5.

A Victim Impact Statement shall be kept confidential and shall be sealed upon entry of the sentencing order. If prepared by someone other than the victim, it shall (i) identify the victim, (ii) itemize any economic loss suffered by the victim as a result of the offense, (iii) identify the nature and extent of any physical or psychological injury suffered by the victim as a result of the offense, (iv) detail any change in the victim's personal welfare, lifestyle or familial relationships as a result of the offense, (v) identify any request for psychological or medical services initiated by the victim or the victim's family as a result of the offense, and (vi) provide such other information as the court may require related to the impact of the offense upon the victim.

If the court does not order a presentence investigation and report, the attorney for the Commonwealth shall, at the request of the victim, submit a Victim Impact Statement. In any event, a victim shall be advised by the local crime victim and witness assistance program that he may submit in his own words a written Victim Impact Statement prepared by the victim or someone the victim designates in writing.

The Victim Impact Statement may be considered by the court in determining the appropriate sentence. A copy of the statement prepared pursuant to this section shall be made available to the defendant or counsel for the defendant without court order at least five days prior to the sentencing hearing. The statement shall not be admissible in any civil proceeding for damages arising out of the acts upon which the conviction was based. The statement, however, may be utilized by the Virginia Workers' Compensation Commission in its determinations on claims by victims of crimes pursuant to Chapter 21.1 (§ 19.2-368.1 et seq.) of this title.

(1983, c. 541; 1984, c. 282; 1987, c. 676; 1989, c. 374; 1993, cc. 436, 569; 1995, cc. 687, 720; 1996, c. 398.)

§ 19.2-305.1. Restitution for property damage or loss; community services.

A. Notwithstanding any other provision of law, no person convicted of a crime in violation of any provision in Title 18.2, except the provisions of Article 2 (§ 18.2-266 et seq.) of Chapter 7 of Title 18.2, on or after July 1, 1977, which resulted in property damage or loss, shall be placed on probation or have his sentence suspended unless such person shall make at least partial restitution for such property damage or loss, or shall be compelled to perform community services, or both, or shall submit a plan for doing that which appears to the court to be feasible under the circumstances.

A1. Notwithstanding any other provision of law, any person who, on or after July 1, 1995, commits, and is convicted of, a crime in violation of any provision in Title 18.2 except the provisions of Article 2 (§ 18.2-266 et seq.) of Chapter 7 of Title 18.2 shall make at least partial restitution for any property damage or loss caused by the crime or for actual medical expenses incurred by the victim as a result of the crime, may be compelled to perform community services and, if the court so orders, shall submit a plan for doing that which appears to be feasible to the court under the circumstances.

B. At or before the time of sentencing, the court shall receive and consider any plan for making restitution submitted by the defendant. The plan shall include the defendant's home address, place of employment and address, social security number and bank information. If the court finds such plan to be reasonable and practical under the circumstances, it may consider probation or suspension of whatever portion of the sentence that it deems appropriate. By order of the court incorporating the defendant's plan or a reasonable and practical plan devised by the court, the defendant shall make restitution while he is free on probation or work release or following his release from confinement. Additionally, the court may order that the defendant make restitution during his confinement, if feasible, based upon both his earning capacity and net worth as determined by the court at sentencing.

C. At the time of sentencing, the court, in its discretion, shall determine the amount to be repaid by the defendant and the terms and conditions thereof. If community

service work is ordered, the court shall determine the terms and conditions upon which such work shall be performed. The court shall include such findings in the judgment order. The order may specify that sums paid under such order shall be paid to the clerk, who shall disburse such sums as the court may, by order, direct. Any court desiring to participate in the Setoff Debt Collection Act (§§ 58.1-520 through 58.1-535) for the purpose of collecting fines or costs or providing restitution shall, at the time of sentencing, obtain the social security number of each defendant.

D. Unreasonable failure to execute the plan by the defendant shall result in revocation of the probation or imposition of the suspended sentence. A hearing shall be held in accordance with the provisions of this Code relating to revocation of probation or imposition of a suspended sentence before either such action is taken.

E. If restitution is ordered to be paid by the defendant to the victim of a crime and the victim can no longer be located or identified, the clerk shall deposit any such restitution collected to the Criminal Injuries Compensation Fund for the benefit of crime victims. The administrator shall reserve a sum sufficient in the Fund from which he shall make prompt payment to the victim for any proper claims. Before making the deposit he shall record the name, last known address and amount of restitution due each victim appearing from the clerk's report to be entitled to restitution.

(1977, c. 682; 1978, c. 131; 1981, c. 224; 1984, cc. 32, 269; 1994, c. 197; 1995, cc. 434, 687; 2000, c. 775.)

§ 53.1-133.02. Notice to be given upon prisoner release, escape, etc.

Prior to the release, including work release, or discharge of any prisoner, or his transfer to a prison, a different jail facility or any other correctional or detention facility, or upon his escape or the change of his name, the sheriff or superintendent who has custody of the prisoner shall give notice of any such occurrence, delivered by first-class mail or by telephone or both, to any victim of the offense as defined in § 19.2-11.01 who, in writing, requests notice or to any person designated in writing by the victim. The notice shall be given at least fifteen days prior to release or transfer, or as soon as practicable following an escape or change of name. Notice shall be given using the address and telephone number provided in writing by the victim. For the purposes of this section, "prisoner" means a person sentenced to serve more than thirty days of incarceration or detention.

No civil liability shall attach for a failure to give notice as provided in this section.

(1995, c. 687.)

§ 53.1-155. Investigation prior to release.

A. No person shall be released on parole by the Board until a thorough investigation has been made into the prisoner's history, physical and mental condition and character and his conduct, employment and attitude while in prison. The Board shall also determine that his release on parole will not be incompatible with the interests of society or of the prisoner. The provisions of this section shall not be applicable to persons released on parole pursuant to § 53.1-159.

B. An investigation conducted pursuant to this section shall include notification that a victim may submit to the Virginia Parole Board evidence concerning the impact that the release of the prisoner will have on such victim. This notification shall be sent to the last address provided to the Board by any victim of a crime for which the prisoner was incarcerated when such victim has requested notice of the prisoner's pending release on discretionary or mandatory parole pursuant to the first paragraph of § 53.1-159. The victim of a crime for which the prisoner is incarcerated may present to the Board oral or written testimony concerning the impact that the release of the prisoner will have on the victim, and the Board shall consider such testimony in its review. Once testimony is submitted by a victim, such testimony shall remain in the prisoner's parole file and shall be considered by the Board at every parole review. The victim of a crime for which the prisoner is incarcerated may submit a written request to the Board to be notified of (i) the prisoner's parole eligibility date and mandatory release date as determined by the Department of Corrections, (ii) any parole-related interview dates, and (iii) the Board's decision regarding parole for the prisoner. The victim may request that the Board only notify the victim if, following its review, the Board is inclined to grant parole to the prisoner, in which case the victim shall have forty-five days to present written or oral testimony for the Board's consideration. If the victim has requested to be notified only if the Board is inclined to grant parole and no testimony, either written or oral, is received from the victim within at least forty-five days of the date of the Board's notification, the Board shall render its decision based on information available to it in accordance with subsection A. The definition of victim in § 19.2-11.01 shall apply to this section.

Although any information presented by the victim of a crime for which the prisoner is incarcerated shall be retained in the prisoner's parole file and considered by the Board, such information shall not infringe on the Board's authority to exercise its decision-making authority.

C. Notwithstanding the provisions of subsection A, if a physical or mental examination of a prisoner eligible for parole has been conducted within the last twelve months, and the prisoner has not required medical or psychiatric treatment within a like period while incarcerated, the prisoner may be released on parole by the Parole Board directly from a local correctional facility.

(Code 1950, § 53-253; 1970, c. 648; 1982, c. 636; 1987, c. 668; 1992, c. 222; 1995, cc. 687, 778.)

§ 53.1-160. Notice to be given upon prisoner release, escape, etc.

A. Prior to the release or discharge of any prisoner, the Department shall have notice of the release or discharge delivered by first class mail to the court which committed the person to the Department of Corrections and to the sheriff, chief of police and attorney for the Commonwealth (i) of the jurisdiction in which the offense occurred, (ii) of the jurisdiction in which the person resided prior to conviction and (iii) if different from (i) and (ii), of the jurisdiction in which the person intends to reside subsequent to being released or discharged. Such notice shall include, but not be limited to, identification of the specific offense or offenses for which the prisoner had been

sentenced, the term or terms of imprisonment imposed, and the date the prisoner was committed to the Department of Corrections.

The Department shall (i) have notice of the release or discharge of any prisoner, or of his transfer to a jail facility, a different prison facility or any other correctional or detention facility, delivered by first-class mail fifteen days prior to any such occurrence, or by telephone if notice by first-class mail cannot be delivered fifteen days prior to the occurrence; (ii) give notice as soon as practicable by telephone upon the escape of a prisoner; and (iii) give notice by first-class mail upon the change of a prisoner's name, to any victim, as defined in § 19.2-11.01, of the offense for which the prisoner was incarcerated or to any person designated in writing by the victim. Notice shall be given using the address and telephone number provided by the victim. For the purposes of this section, "prisoner" means a person sentenced to serve more than thirty days of incarceration or detention.

B. Fifteen days prior to the release of any prisoner to an authorized work release program or release to attend a business, educational or other related community program, the Department shall give notice to (i) the attorney for the Commonwealth, (ii) the chief law-enforcement officer of the jurisdiction in which the work on release will be performed or attendance at an authorized program will be permitted, and (iii) any victim, as defined in § 19.2-11.01, of the offense for which the prisoner was incarcerated or any person designated in writing by the victim at the address or phone number provided by the victim.

Every notice to the attorney for the Commonwealth or to the chief law-enforcement officer shall include the name, address and criminal history of the participating prisoner, and other information upon request. The transmission of information shall be confidential and not subject to the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

No civil liability shall attach for the failure to give notice as provided in this section.

(Code 1950, § 53-265.1; 1980, c. 515; 1982, c. 636; 1984, c. 155; 1989, cc. 525, 652; 1993, c. 189; 1995, c. 687.)

Statues Referenced in the Definition of the Term "Victim" at §19.2-11.01B

§ 18.2-57. Assault and battery.

A. Any person who commits a simple assault or assault and battery shall be guilty of a Class 1 misdemeanor, and if the person intentionally selects the person against whom a simple assault is committed because of his race, religious conviction, color or national origin, the penalty upon conviction shall include a mandatory, minimum term of confinement of at least six months, thirty days of which shall not be suspended, in whole or in part.

B. However, if a person intentionally selects the person against whom an assault and battery resulting in bodily injury is committed because of his race, religious

conviction, color or national origin, the person shall be guilty of a Class 6 felony, and the penalty upon conviction shall include a mandatory, minimum term of confinement of at least six months, thirty days of which shall not be suspended, in whole or in part.

C. In addition, if any person commits an assault or an assault and battery against another knowing or having reason to know that such other person is a law-enforcement officer as defined hereinafter, a correctional officer as defined in § 53.1-1, a person employed by the Department of Corrections directly involved in the care, treatment or supervision of inmates in the custody of the Department or a firefighter as defined in § 65.2-102, engaged in the performance of his public duties as such, such person shall be guilty of a Class 6 felony, and, upon conviction, the sentence of such person shall include a mandatory, minimum term of confinement for six months which mandatory, minimum term shall not be suspended, in whole or in part.

Nothing in this subsection shall be construed to affect the right of any person charged with a violation of this section from asserting and presenting evidence in support of any defenses to the charge that may be available under common law.

D. In addition, if any person commits a battery against another knowing or having reason to know that such other person is a full-time or part-time teacher, principal, assistant principal, or guidance counselor of any public or private elementary or secondary school and is engaged in the performance of his duties as such, he shall be guilty of a Class 1 misdemeanor and the sentence of such person upon conviction shall include a mandatory, minimum sentence of fifteen days in jail, two days of which shall not be suspended in whole or in part. However, if the offense is committed by use of a firearm or other weapon prohibited on school property pursuant to § 18.2-308.1, the person shall serve a mandatory, minimum sentence of confinement of six months which shall not be suspended in whole or in part.

E. As used in this section, a "law-enforcement officer" means any full-time or part-time employee of a police department or sheriff's office which is part of or administered by the Commonwealth or any political subdivision thereof, who is responsible for the prevention or detection of crime and the enforcement of the penal, traffic or highway laws of this Commonwealth, and any conservation officer of the Department of Conservation and Recreation commissioned pursuant to § 10.1-115, and game wardens appointed pursuant to § 29.1-200, and such officer also includes jail officers in local and regional correctional facilities, all deputy sheriffs, whether assigned to law-enforcement duties, court services or local jail responsibilities, auxiliary police officers appointed or provided for pursuant to §§ 15.2-1731 and 15.2-1733 and auxiliary deputy sheriffs appointed pursuant to § 15.2-1603.

F. "Simple assault" or "assault and battery" shall not be construed to include the use of, by any teacher, in the course and scope of his acting official capacity, any of the following: (i) incidental, minor or reasonable physical contact or other actions designed to maintain order and control; (ii) reasonable and necessary force to quell a disturbance or remove a student from the scene of a disturbance that threatens physical injury to persons or damage to property; (iii) reasonable and necessary force to prevent a student from inflicting physical harm on himself; (iv) reasonable and necessary force for self-defense or the defense of others; or (v) reasonable and necessary force to obtain possession of weapons or other dangerous objects or controlled substances or associated paraphernalia that are upon the person of the student or within his control.

In determining whether a person was acting within the exceptions provided in this subsection, due deference shall be given to reasonable judgments at the time of the event that were made by a teacher.

(1975, cc. 14, 15; 1994, c. 658; 1997, c. 833; 1999, cc. 771, 1036; 2000, cc. 288, 682; 2001, c. 129.)

§ 18.2-57.1.

Repealed by Acts 1997, c. 833.

§ 18.2-57.2. Assault and battery against a family or household member.

A. Any person who commits an assault and battery against a family or household member shall be guilty of a Class 1 misdemeanor.

B. On a third or subsequent conviction for assault and battery against a family or household member, where it is alleged in the warrant, information, or indictment on which a person is convicted, that (i) such person has been previously convicted twice of assault and battery against a family or household member, or of a similar offense under the law of any other jurisdiction, within ten years of the third or subsequent offense, and (ii) each such assault and battery occurred on different dates, such person shall be guilty of a Class 6 felony.

C. Whenever a warrant for a violation of this section is issued, the magistrate shall issue an emergency protective order as authorized by § 16.1-253.4, except if the defendant is a minor, an emergency protective order shall not be required.

D. The definition of "family or household member" in § 16.1-228 applies to this section.

(1991, c. 238; 1992, cc. 526, 886; 1996, c. 866; 1997, c. 603; 1999, cc. 697, 721, 807.)

§ 18.2-60.3. Stalking; penalty.

A. Any person who on more than one occasion engages in conduct directed at another person with the intent to place, or ~~with the knowledge~~when he knows or reasonably should know that the conduct places~~,~~ that other person in reasonable fear of death, criminal sexual assault, or bodily injury to that other person or to that other person's family or household member ~~shall be~~is guilty of a Class 1 misdemeanor.

B. A third or subsequent conviction occurring within five years of a conviction for an offense under this section or for a similar offense under the law of any other jurisdiction shall be a Class 6 felony.

C. A person may be convicted under this section irrespective of the jurisdiction or jurisdictions within the Commonwealth wherein the conduct described in subsection A occurred, if the person engaged in that conduct on at least one occasion in the jurisdiction where the person is tried. Evidence of any such conduct ~~which~~that occurred outside the

Commonwealth may be admissible, if relevant, in any prosecution under this section provided that the prosecution is based upon conduct occurring within the Commonwealth.

D. Upon finding a person guilty under this section, the court shall, in addition to the sentence imposed, issue an order prohibiting contact between the defendant and the victim or the victim's family or household member.

E. The Department of Corrections, sheriff or regional jail director shall give notice prior to the release from a state correctional facility or a local or regional jail of any person incarcerated upon conviction of a violation of this section, to any victim of the offense who, in writing, requests notice, or to any person designated in writing by the victim. The notice shall be given at least fifteen days prior to release of a person sentenced to a term of incarceration of more than thirty days or, if the person was sentenced to a term of incarceration of at least forty-eight hours but no more than thirty days, twenty-four hours prior to release. If the person escapes, notice shall be given as soon as practicable following the escape. The victim shall keep the Department of Corrections, sheriff or regional jail director informed of the current mailing address and telephone number of the person named in the writing submitted to receive notice.

All information relating to any person who receives or may receive notice under this subsection shall remain confidential and shall not be made available to the person convicted of violating this section.

For purposes of this subsection, "release" includes a release of the offender from a state correctional facility or a local or regional jail (i) upon completion of his term of incarceration or (ii) on probation or parole.

No civil liability shall attach to the Department of Corrections nor to any sheriff or regional jail director or their deputies or employees for a failure to comply with the requirements of this subsection.

F. For purposes of this section:

~~F. As used in this section the term "family~~"Family or household member" ~~shall have~~has the same meaning as provided in § 16.1-228.

(1992, c. 888; 1994, cc. 360, 521, 739; 1995, c. 824; 1996, cc. 540, 866; 1998, c. 570; 2001, c. 197.)

§ 18.2-67.4. Sexual battery.

A. An accused shall be guilty of sexual battery if he or she sexually abuses, as defined in § 18.2-67.10, (i) the complaining witness against the will of the complaining witness, by force, threat, intimidation or ruse, or through the use of the complaining witness's mental incapacity or physical helplessness, or (ii) an inmate who has been committed to jail or convicted and sentenced to confinement in a state or local correctional facility or regional jail, and the accused is an employee or contractual employee of, or a volunteer with, the state or local correctional facility or regional jail; is in a position of authority over the inmate; and knows that the inmate is under the jurisdiction of the state or local correctional facility or regional jail, or (iii) a probationer, parolee, or a pretrial or posttrial offender under the jurisdiction of the Department of Corrections, a local community-based probation program, a pretrial services program, a local or regional jail for the

purposes of imprisonment, a work program or any other parole/probationary or pretrial services program and the accused is an employee or contractual employee of, or a volunteer with, the Department of Corrections, a local community-based probation program, a pretrial services program or a local or regional jail; is in a position of authority over an offender; and knows that the offender is under the jurisdiction of the Department of Corrections, a local community-based probation program, a pretrial services program or a local or regional jail.

B. Sexual battery is a Class 1 misdemeanor.

(1981, c. 397; 1997, c. 643; 1999, c. 294; 2000, cc. 832, 1040.)

§ 18.2-67.5. Attempted rape, forcible sodomy, object sexual penetration, aggravated sexual battery, and sexual battery.

A. An attempt to commit rape, forcible sodomy, or inanimate or animate object sexual penetration shall be punishable as a Class 4 felony.

B. An attempt to commit aggravated sexual battery shall be a felony punishable as a Class 6 felony.

C. An attempt to commit sexual battery is a Class 1 misdemeanor.

(1981, c. 397; 1993, c. 549.)

§ 18.2-51.4. Maiming, etc., of another resulting from driving while intoxicated.

A. Any person who, as a result of driving while intoxicated in violation of § 18.2-266 or any local ordinance substantially similar thereto in a manner so gross, wanton and culpable as to show a reckless disregard for human life, unintentionally causes the serious bodily injury of another person resulting in permanent and significant physical impairment shall be guilty of a Class 6 felony. The driver's license of any person convicted under this section shall be revoked pursuant to subsection B of § 46.2-391.

B. The provisions of Article 2 (§ 18.2-266 et seq.) of Chapter 7 of Title 18.2 shall apply, mutatis mutandis, upon arrest for a violation of this section.

(1997, c. 691; 1999, cc. 945, 987; 2000, cc. 956, 982.)

§ 18.2-266. Driving motor vehicle, engine, etc., while intoxicated, etc.

It shall be unlawful for any person to drive or operate any motor vehicle, engine or train (i) while such person has a blood alcohol concentration of 0.08 percent or more by weight by volume or 0.08 grams or more per 210 liters of breath as indicated by a chemical test administered as provided in this article, (ii) while such person is under the influence of alcohol, (iii) while such person is under the influence of any narcotic drug or any other self-administered intoxicant or drug of whatsoever nature, or any combination of such drugs, to a degree which impairs his ability to drive or operate any motor vehicle,

engine or train safely, or (iv) while such person is under the combined influence of alcohol and any drug or drugs to a degree which impairs his ability to drive or operate any motor vehicle, engine or train safely. A charge alleging a violation of this section shall support a conviction under clauses (i), (ii), (iii) or (iv).

For the purposes of this section, the term "motor vehicle" includes mopeds, while operated on the public highways of this Commonwealth.

(Code 1950, § 18.1-54; 1960, c. 358; 1975, cc. 14, 15; 1977, c. 637; 1984, c. 666; 1986, c. 635; 1987, c. 661; 1992, c. 830; 1994, cc. 359, 363; 1996, c. 439.)

Victims' Rights Statutes Referenced in §19.2-11.01. of the Crime Victim and Witness Rights Act but not Amended by the Act

Victim Witness Protection

§ 52-35 Witness protection program established

The Superintendent of State Police may establish and maintain within the Department of State Police a witness protection program to temporarily relocate or otherwise protect witnesses and their families who may be in danger because of their cooperation with the investigation and prosecution of serious violent crimes or felony violations of § 18.2-248. The Superintendent may make the services of the program available to law-enforcement and criminal justice agencies of all counties, cities, and towns, and of the Commonwealth, pursuant to regulations promulgated by the Superintendent under the Administrative Process Act. (§ 2.2-4000 et seq.).

(1994, c. 833.)

(This chapter is effective until January 1, 2003).

Financial Assistance

§ 19.2-368.1. Findings; legislative intent.

The General Assembly finds that many innocent persons suffer personal physical injury or death as a result of criminal acts or in their efforts to prevent crime or apprehend persons committing or attempting to commit crimes. Such persons or their dependents may thereby suffer disability, incur financial hardships or become dependent upon public assistance. The General Assembly finds and determines that there is a need for governmental financial assistance for such victims of crime. Therefore, it is the intent of the General Assembly that aid, care and support be provided by the Commonwealth as a matter of moral responsibility for such victims of crime.

(1976, c. 605.)

§ 19.2-368.2. Definitions.

For the purpose of this chapter:

"Claimant" means the person filing a claim pursuant to this chapter.

"Commission" means the Virginia Workers' Compensation Commission.

"Crime" means an act committed by any person in the Commonwealth of Virginia which would constitute a crime as defined by the Code of Virginia or at common law. However, no act involving the operation of a motor vehicle which results in injury shall constitute a crime for the purpose of this chapter unless the injuries (i) were intentionally inflicted through the use of such vehicle or (ii) resulted from a violation of § 18.2-51.4 or § 18.2-266.

"Family," when used with reference to a person, means (i) any person related to such person within the third degree of consanguinity or affinity, (ii) any person residing in the same household with such person, or (iii) a spouse.

"Sexual abuse" means sexual abuse as defined in subdivision 6 of § 18.2-67.10 and acts constituting rape, sodomy, object sexual penetration or sexual battery as defined in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2.

"Victim" means a person who suffers personal physical injury or death as a direct result of a crime including a person who is injured or killed as a result of foreign terrorism or who suffers personal emotional injury as a direct result of being the subject of a violent felony offense as defined in subsection C of § 17.1-805, or attempted robbery or abduction.

(1976, c. 605; 1984, c. 619; 1988, c. 748; 1990, c. 620; 1997, cc. 528, 691; 1998, c. 484; 1999, c. 286; 2001, c. 855.)

§ 19.2-368.3. Powers and duties of Commission.

The Commission shall have the following powers and duties in the administration of the provisions of this chapter:

1. To adopt, promulgate, amend and rescind suitable rules and regulations to carry out the provisions and purposes of this chapter.

2. Notwithstanding the provisions of § 2.2-3706, to acquire from the attorneys for the Commonwealth, State Police, local police departments, sheriffs' departments, and the Chief Medical Examiner such investigative results, information and data as will enable the Commission to determine if, in fact, a crime was committed or attempted, and the extent, if any, to which the victim or claimant was responsible for his own injury. These data shall include prior adult arrest records and juvenile court disposition records of the offender. For such purposes and in accordance with § 16.1-305, the Commission may also acquire from the juvenile and domestic relations district courts a copy of the order of disposition relating to the crime. The use of any information received by the Commission pursuant to this subdivision shall be limited to carrying out the purposes set forth in this section, and this information shall be confidential and shall not be disseminated further. The agency from which the information is requested may submit original reports, portions thereof, summaries, or such other configurations of information as will comply with the requirements of this section.

3. To hear and determine all claims for awards filed with the Commission pursuant to this chapter, and to reinvestigate or reopen cases as the Commission deems necessary.

4. To require and direct medical examination of victims.

5. To hold hearings, administer oaths or affirmations, examine any person under oath or affirmation and to issue summonses requiring the attendance and giving of testimony of witnesses and require the production of any books, papers, documentary or other evidence. The powers provided in this subsection may be delegated by the Commission to any member or employee thereof.

6. To take or cause to be taken affidavits or depositions within or without the Commonwealth.

7. To render each year to the Governor and to the General Assembly a written report of its activities.

8. To accept from the government of the United States grants of federal moneys for disbursement under the provisions of this chapter.

(1976, c. 605; 1984, c. 619; 1986, c. 422; 1990, c. 551; 1992, c. 547; 1998, c. 484; 1999, cc. 703, 726.)

§ 19.2-368.3:1. Crime victims' ombudsman.

A. The Commission shall employ a crime victims' ombudsman and adequate staff to facilitate the prompt review and resolution of crime victim compensation claims and to assure that crime victims' rights are safeguarded and protected during the claims process. The ombudsman shall report directly to the Commission.

B. The ombudsman shall ensure that all parties, including service providers and Criminal Injuries Compensation Fund personnel, are acting in the best interests of the crime victim. The ombudsman shall also provide assistance to crime victims in filling out the necessary forms for compensation and obtaining necessary documentation.

(1998, c. 484.)

§ 19.2-368.4. Persons eligible for awards.

A. The following persons shall be eligible for awards pursuant to this chapter unless the award would directly and unjustly benefit the person who is criminally responsible:

1. A victim of a crime.

2. A surviving spouse, parent, grandparent, sibling or child, including posthumous children, of a victim of a crime who died as a direct result of such crime.

3. Any person, except a law-enforcement officer engaged in the performance of his duties, who is injured or killed while trying to prevent a crime or an attempted crime from occurring in his presence, or trying to apprehend a person who had committed a crime in his presence or had, in fact, committed a felony.

4. A surviving spouse, parent, grandparent, sibling or child, including posthumous children, of any person who dies as a direct result of trying to prevent a crime or

attempted crime from occurring in his presence, or trying to apprehend a person who had committed a crime in his presence or had, in fact, committed a felony.

5. Any other person legally dependent for his principal support upon a victim of crime who dies as a result of such crime, or legally dependent for his principal support upon any person who dies as a direct result of trying to prevent a crime or an attempted crime from occurring in his presence or trying to apprehend a person who had committed a crime in his presence or had, in fact, committed a felony.

B. A person who is criminally responsible for the crime upon which a claim is based, or an accomplice or accessory of such person, shall not be eligible to receive an award with respect to such claim.

C. A resident of Virginia who is the victim of a crime occurring outside Virginia and any other person as defined in subsection A who is injured as a result of a crime occurring outside Virginia shall be eligible for an award pursuant to this chapter if (i) the person would be eligible for benefits had the crime occurred in Virginia and (ii) the state in which the crime occurred does not have a crime victims' compensation program deemed eligible pursuant to the provisions of the federal Victims of Crime Act and does not compensate nonresidents.

(1976, c. 605; 1977, c. 215; 1978, c. 210; 1981, c. 592; 1984, c. 747; 1985, c. 446; 1986, c. 422; 1988, c. 406; 1990, c. 550; 1996, c. 86.)

§ 19.2-368.5. Filing of claims; deferral of proceedings.

A. A claim may be filed by a person eligible to receive an award, as provided in § 19.2-368.4, or if such person is a minor, by his parent or guardian. In any case in which the person entitled to make a claim is incapacitated, the claim may be filed on his behalf by his guardian, conservator or such other individual authorized to administer his estate.

B. A claim shall be filed by the claimant not later than one year after the occurrence of the crime upon which such claim is based, or not later than one year after the death of the victim. However, (i) in cases involving claims made on behalf of a minor or a person who is incapacitated, the provisions of subsection A of § 8.01-229 shall apply to toll the one-year period; ~~and~~ (ii) in cases involving claims made by a victim against profits of crime forfeited and held in escrow pursuant to Chapter 21.2 (§ 19.2-368.19 et seq.) of this title, the claim shall be filed within five years of the date of the order of forfeiture~~.~~ ~~In all other cases, upon~~; and (iii) in cases involving claims of sexual abuse of a minor, the claim shall be filed within ten years after the minor's eighteenth birthday. For good cause shown, the Commission may extend the time for filing ~~for a period not exceeding, under any circumstances, two years after such occurrence~~.

C. Claims shall be filed in the office of the Commission in person or by mail. The Commission shall accept for filing all claims submitted by persons eligible under subsection A of this section and alleging the jurisdictional requirements set forth in this chapter and meeting the requirements as to form in the rules and regulations of the Commission.

D. Upon filing of a claim pursuant to this chapter, the Commission shall promptly notify the attorney for the Commonwealth of the jurisdiction wherein the crime is alleged to have occurred. If, within ten days after such notification, the attorney for the

Commonwealth so notified advises the Commission that a criminal prosecution is pending upon the same alleged crime, the Commission shall defer all proceedings under this chapter until such time as such criminal prosecution has been concluded in the circuit court unless notification is received from the attorney for the Commonwealth that no objection is made to a continuation of the investigation and determination of the claim. When such criminal prosecution has been concluded in the circuit court the attorney for the Commonwealth shall promptly so notify the Commission. Nothing in this section shall be construed to mean that the Commission is to defer proceedings upon the filing of an appeal, nor shall this section be construed to limit the authority of the Commission to grant emergency awards as hereinafter provided.

(1976, c. 605; 1977, c. 215; 1978, c. 122; 1986, c. 457; 1992, c. 681; 1997, c. 801; 1998, c. 484; 2001, cc. 363, 855.)

§ 19.2-368.5:1. Failure to perfect claim; denial.

Notwithstanding the provisions of § 19.2-368.5, if, following the initial filing of a claim, a claimant fails to take such further steps to support or perfect the claim as may be required by the Commission within 180 days after written notice of such requirement is sent by the Commission to the claimant, the claimant shall be deemed in default. If the claimant is in default, the Commission shall notify the claimant that the claim is denied and the claimant shall be forever barred from reasserting it; however, the Commission may reopen the proceeding upon a showing by claimant that the failure to do the acts required by the Commission was beyond the control of the claimant.

(1981, c. 302; 1998, c. 484.)

§ 19.2-368.6. Assignment of claims; investigation; hearing; confidentiality of records; decisions.

A. A claim, when accepted for filing, shall be properly investigated, and, if necessary, assigned by the chairman to a commissioner, deputy commissioner or other proper party for disposition. All claims arising from the death of an individual shall be considered together by the same person.

B. The person to whom such claim is assigned shall examine the papers filed in support of the claim and shall thereupon cause an investigation to be conducted into the validity of the claim. The investigation shall include, but not be limited to, an examination of police, court and official records and reports concerning the crime, and an examination of medical and hospital reports relating to the injury upon which the claim is based. Health care providers, as defined in § 8.01-581.1, shall provide medical and hospital reports relating to the diagnosis and treatment of the injury upon which the claim is based to the Commission, upon request.

C. Claims shall be investigated and determined, regardless of whether the alleged criminal has been apprehended or prosecuted for, or convicted of, any crime based upon the same incident, or has been acquitted, or found not guilty of the crime in question owing to a lack of criminal responsibility or other legal exemption.

D. There shall be a rebuttable presumption that the claimant did not contribute to and was not responsible for the infliction of his injury.

E. The person to whom a claim is assigned may decide the claim in favor of a claimant on the basis of the papers filed in support thereof and the report of the investigation of the claim. If he is unable to decide the claim, upon the basis of the said papers and report, he shall order a hearing. At the hearing any relevant evidence, not legally privileged, shall be admissible. The hearing of any claim involving a claimant or victim who is a juvenile shall be closed. All records, papers, and reports involving such claim shall be confidential except as to the amount of the award and nonidentifying information concerning the claimant or victim.

F. For purposes of this chapter, confidentiality provided for by law applicable to a claimant's or victim's juvenile court records shall not be applicable to the extent that the Commission shall have access to those records only for the purposes set forth in this chapter.

G. After examining the papers filed in support of the claim, and the report of investigation, and after a hearing, if any, a decision shall be made either granting an award pursuant to § 19.2-368.11:1 of this chapter or denying the claim.

H. The person making a decision shall issue a written report setting forth such decision and his reasons therefor, and shall notify the claimant and furnish him a copy of such report.

(1976, c. 605; 1977, c. 215; 1994, c. 834; 1997, c. 528; 1998, c. 484.)

§ 19.2-368.7. Review by Commission.

A. The claimant may, within forty-five days from the date of the report, apply in writing to the Commission for review of the decision by the full Commission. The Commission may extend the time for filing under this section~~, upon~~ for good cause shown~~, for a period not to exceed two years from the date of the occurrence~~.

B. Upon receipt of an application pursuant to subsection A of this section, or upon its own motion, the Commission shall review the record and affirm or modify the decision of the person to whom the claim was assigned. The action of the Commission in affirming or modifying such decision shall be final. If the Commission receives no application pursuant to subsection A of this section, or takes no action upon its own motion, the decision of the person to whom the claim was assigned shall become the final decision of the Commission.

C. The Commission shall promptly notify the claimant and the Comptroller of the final decision of the Commission and furnish each with a copy of the report setting forth the decision.

(1976, c. 605; 1977, c. 215; 1986, c. 457; 1989, c. 335; 2000, c. 455; 2001, c. 363.)

§ 19.2-368.8. Reinvestigation of decision; reconsideration of award; judicial review.

A. The Commission, on its own motion, or upon request of the claimant, may reinvestigate or reopen a decision making or denying an award. ~~Under no circumstances shall~~Except for claims of sexual abuse that occurred while the victim was a minor, the Commission shall not reopen or reinvestigate a case after the expiration of two years from the date of occurrence of the crime upon which the claim is based. Any claim involving the sexual abuse of a minor that has been denied before July 1, 2001, because it was not timely filed may, upon application filed with the Commission, be reconsidered provided the application for reconsideration is filed within ten years after the minor's eighteenth birthday.

B. The Commission shall reconsider, at least annually, every award upon which periodic payments are being made. An order or reconsideration of an award shall not require refund of amounts previously paid unless the award was obtained by fraud. The right of reconsideration does not affect the finality of a Commission decision for the purposes of judicial review.

C. Within thirty days of the date of the report containing the final decision of the Commission, the claimant may, if in his judgment the award is improper, appeal such decision to the Court of Appeals, as provided in § 65.2-706. The Attorney General may appear in such proceedings as counsel for the Commission.

(1976, c. 605; 1977, c. 215; 1984, c. 703; 2001, c. 855.)

§ 19.2-368.9. Emergency awards.

Notwithstanding any other provisions of this chapter, if it appears to the Commission, that (1) such claim is one with respect to which an award probably will be made, and (2) undue hardship will result to the claimant if immediate payment is not made, the Commission may make an emergency award to the claimant, pending a final decision in the case, provided that (i) the amount of such emergency award shall not exceed $2,000, (ii) the amount of such emergency award shall be deducted from any final award made to the claimant, and (iii) the excess of the amount of such emergency award over the final award, or the full amount of the emergency award if no final award is made, shall be repaid by the claimant to the Commission.

(1976, c. 605; 1977, c. 215; 1985, c. 446.)

§ 19.2-368.10. When awards to be made; reporting crime and cooperation with law-enforcement.

No award shall be made unless the Commission finds that:

~~(1)~~ 1. A crime was committed;

~~(2)~~ 2. S~~s~~uch crime directly resulted in personal physical injury to, or death of the victim~~,~~; and

~~(3)~~ 3. P~~p~~olice records show that such crime was promptly reported to the proper authorities~~,~~. ~~and~~ I~~i~~n no case may an award be made where the police records show that

Note: Underlined text and ~~struck-through~~ text indicate amendments made during the 2001 session of the General Assembly

such report was made more than 120 hours after the occurrence of such crime, unless the Commission, for good cause shown, finds the delay to have been justified. The provisions of this subdivision shall not apply to claims of sexual abuse that occurred while the victim was a minor.

The Commission, upon finding that any claimant or award recipient has not fully cooperated with all law-enforcement agencies, may deny, reduce or withdraw any award, as the case may be.

(1976, c. 605; 1977, c. 215; 1985, c. 446; 2001, c. 855.)

§ 19.2-368.11.

Repealed by Acts 1986, c. 457.

§ 19.2-368.11:1. Amount of award.

A. Compensation for Total Loss of Earnings: An award made pursuant to this chapter for total loss of earnings which results directly from incapacity incurred by a crime victim shall be payable during total incapacity to the victim or to such other eligible person, at a weekly compensation rate equal to sixty-six and two-thirds percent of the victim's average weekly wages. The total amount of weekly compensation shall not exceed $200. The victim's average weekly wages shall be determined as provided in § 65.2-101.

B. Compensation for Partial Loss of Earnings: An award made pursuant to this chapter for partial loss of earnings which results directly from incapacity incurred by a crime victim shall be payable during incapacity at a weekly rate equal to sixty-six and two-thirds percent of the difference between the victim's average weekly wages before the injury and the weekly wages which the victim is able to earn thereafter. The combined total of actual weekly earnings and compensation for partial loss of earnings shall not exceed $200 per week.

C. Compensation for Dependents of a Victim Who Is Killed: If death results to a victim of crime entitled to benefits, dependents of the victim shall be entitled to compensation in accordance with the provisions of §§ 65.2-512 and 65.2-515 in an amount not to exceed the maximum aggregate payment or the maximum weekly compensation which would have been payable to the deceased victim under this section.

D. Compensation for Unreimbursed Medical Costs, Funeral Expenses, Services, etc.: Awards may also be made on claims or portions of claims based upon the claimant's actual expenses incurred as are determined by the Commission to be appropriate, for (i) unreimbursed medical expenses or indebtedness reasonably incurred for medical expenses; (ii) expenses reasonably incurred in obtaining ordinary and necessary services in lieu of those the victim would have performed, for the benefit of himself and his family, if he had not been a victim of crime; (iii) expenses in any way related to funeral or burial, not to exceed $3,500; (iv) expenses attributable to pregnancy resulting from forcible rape; (v) mental health counseling for survivors as defined under subdivisions A 2 and A 4 of § 19.2-368.4, not to exceed $ 2,500 per claim; (vi) reasonable and necessary moving expenses, not to exceed $500, incurred by a victim or survivors as defined under

subdivisions A 2 and A 4 of § 19.2-368.4; and (vii) any other reasonable and necessary expenses and indebtedness incurred as a direct result of the injury or death upon which such claim is based, not otherwise specifically provided for.

E. Any claim made pursuant to this chapter shall be reduced by the amount of any payments received or to be received as a result of the injury from or on behalf of the person who committed the crime or from any other public or private source, including an emergency award by the Commission pursuant to § 19.2-368.9.

F. To qualify for an award under this chapter, a claim must have a minimum value of $100, and payments for injury or death to a victim of crime, to the victim's dependents or to others entitled to payment for covered expenses, after being reduced as provided in subsection E, shall not exceed $15,000 in the aggregate.

(1986, c. 457; 1988, c. 748; 1989, c. 335; 1990, c. 552; 1992, c. 687; 1996, c. 86; 1998, c. 484; 2000, c. 847.)

§ 19.2-368.12. Awards not subject to execution or attachment; apportionment; reductions.

A. No award made pursuant to this chapter shall be subject to execution or attachment other than for expenses resulting from the injury which is the basis for the claim.

B. If there are two or more persons entitled to an award as a result of the death of a person which is the direct result of a crime, the award shall be apportioned among the claimants.

C. In determining the amount of an award, the Commission shall determine whether, because of his conduct, the victim of such crime contributed to the infliction of his injury, and the Commission shall reduce the amount of the award or reject the claim altogether, in accordance with such determination; provided, however, that the Commission may disregard for this purpose the responsibility of the victim for his own injury where the record shows that such responsibility was attributable to efforts by the victim to prevent a crime or an attempted crime from occurring in his presence, or to apprehend a person who had committed a crime in his presence or had, in fact, committed a felony.

(1976, c. 605; 1977, c. 215; 1989, c. 335.)

§ 19.2-368.13.

Repealed by Acts 1984, c. 619.

§ 19.2-368.14. Public record; exception.

Except as provided in § 19.2-368.6 concerning juvenile claimants or victims, the record of any proceedings under this chapter shall be a public record; provided, however, that

any record or report obtained by the Commission, the confidentiality of which is protected by any other law or regulation, shall remain confidential, subject to such law or regulation.

(1976, c. 605; 1994, c. 834.)

§ 19.2-368.15. Subrogation of Commonwealth to claimant's right of action; disposition of funds collected.

Acceptance of an award made pursuant to this chapter shall subrogate the Commonwealth, to the extent of such award, to any right or right of action accruing to the claimant or the victim to recover payments on account of losses resulting from the crime with respect to which the award is made. However, the Commonwealth shall not institute any proceedings in connection with its right of subrogation under this section within one year from the date of commission of the crime, unless any claimant or victim's right or action shall have been previously terminated. All funds collected by the Commonwealth in a proceeding instituted pursuant to this section shall be paid over to the Comptroller for deposit into the Criminal Injuries Compensation Fund.

(1976, c. 605; 1983, c. 227.)

§ 19.2-368.16. Claims to be made under oath.

All claims shall be made under oath. Any person who asserts a false claim under the provisions of this chapter shall be guilty of perjury and, in addition, shall be subject to prosecution under the provisions of Article 3 (§ 18.2-95 et seq.) of Chapter 5 of Title 18.2, and shall further forfeit any benefit received and shall reimburse and repay the Commonwealth for payments received or paid on his behalf pursuant to any of the provisions hereunder.

(1976, c. 605.)

§ 19.2-368.17. Public information program.

The Commission shall establish and conduct a public information program to assure extensive and continuing publicity and public awareness of the provisions of this chapter. The public information program shall include brochures, posters and public service advertisements for television, radio and print media for dissemination to the public of information regarding the right to compensation for innocent victims of crime, including information on the right to file a claim, the scope of coverage, and the procedures to be utilized incident thereto.

Whenever a crime which directly resulted in personal physical injury to, or death of, an individual is reported within the time required by § 19.2-368.10, the law-enforcement agency to which the report is made shall make reasonable efforts, where practicable, to notify the victim or other potential claimant in writing on forms prepared by the

Commission of his or her possible right to file a claim under this chapter. In any event, no liability or cause of action shall arise from the failure to so notify a victim of crime or other potential claimant.

(1976, c. 605; 1986, cc. 457, 472.)

§ 19.2-368.18. Criminal Injuries Compensation Fund.

A. There is hereby created a special fund to be administered by the Comptroller, known as the Criminal Injuries Compensation Fund.

B. Where any person is convicted, after July 1, 1996, by a court with criminal jurisdiction of (i) treason or any other felony or (ii) any offense punishable as a misdemeanor under Title 18.2 or pursuant to local ordinance substantially similar to a misdemeanor under Title 18.2, with the exception of a public drunkenness violation, a cost shall be imposed in addition to any other costs required to be imposed by law. This additional cost shall be thirty dollars in any case under clause (i) and twenty dollars in any case under clause (ii) of this subsection. Such additional sum shall be paid over to the Comptroller to be deposited into the Criminal Injuries Compensation Fund. Under no condition shall a political subdivision be held liable for the payment of this sum.

C. No claim shall be accepted under the provisions of this chapter when the crime which gave rise to such claim occurred prior to July 1, 1977.

D. Sums available in the Criminal Injuries Compensation Fund shall be used for the purpose of payment of the costs and expenses necessary for the administration of this chapter and for the payment of claims pursuant to this chapter.

E. All revenues deposited into the Criminal Injuries Compensation Fund, and appropriated for the purposes of this chapter, shall be immediately available for the payment of claims.

(1976, c. 605; 1978, c. 413; 1980, c. 521; 1985, c. 230; 1988, c. 748; 1993, c. 434; 1996, cc. 760, 976.)

§ 19.2-368.19. Definitions.

For purposes of this chapter, the following terms shall have the following meanings unless the context requires otherwise:

"Defendant" means any person who pleads guilty to, is convicted of, or is found not guilty by reason of insanity with respect to a felony resulting in physical injury to or death of another person.

"Division" means the Division of Crime Victims' Compensation.

"Interested party" means the victim, the defendant, and any transferee of proceeds due the defendant under a contract, the person with whom the defendant has contracted, the prosecuting attorney for the Commonwealth, and the Division of Crime Victims' Compensation.

"Victim" means a person who suffers personal, physical, mental, emotional, or pecuniary loss as a direct result of a crime and includes the spouse, parent, child, or sibling of the victim.

(1990, c. 549; 1992, c. 681.)

§ 19.2-368.20. Order of special forfeiture.

Any proceeds or profits received or to be received directly or indirectly by a defendant or a transferee of that defendant from any source, as a direct or indirect result of his crime or sentence, or the notoriety which such crime or sentence has conferred upon him, shall be subject to forfeiture pursuant to Chapter 22 (§ 19.2-369 et seq.) of this title.

Income from the defendant's employment in a position unrelated to his crime or the notoriety which such crime has conferred upon him but obtained through the assistance of or rehabilitative training by correctional or mental health programs or personnel shall not be subject to forfeiture under this section, and nothing in this section shall be construed to prohibit or hinder the return of property belonging to victims of crime to its rightful owners. Any proceeds from a contract relating to a depiction or discussion of the defendant's crime in a movie, book, newspaper, magazine, radio or television production, or live entertainment or publication of any kind shall not be subject to forfeiture unless an integral part of the work is a depiction or discussion of the defendant's crime or an impression of the defendant's thoughts, opinions, or emotions regarding such crime.

Upon petition of the attorney for the Commonwealth filed at any time after conviction of such defendant or his acquittal by reason of insanity and after notice to the interested parties, a hearing upon the motion and a finding for the Commonwealth, for good cause shown, any circuit court in which the petition is filed shall order that such proceeds be forfeited.

An order issued under this section shall require that the defendant and the person with whom the defendant contracts pay to the Division any proceeds due the defendant under the contract.

(1990, c. 549; 1992, c. 681.)

§ 19.2-368.21. Distribution.

A. Proceeds paid to the Division under § 19.2-368.20 shall be retained in escrow in the Criminal Injuries Compensation Fund for five years after the date of the order, but during that five-year period may be levied upon to satisfy:

1. A money judgment rendered by a court or award of the Workers' Compensation Commission in favor of a victim of an offense for which the defendant has been convicted or acquitted by reason of insanity, or a legal representative of the victim; and

2. Any fines or costs assessed against the defendant by a court of this Commonwealth.

B. If ordered by a circuit court in the interest of justice, after motion, notice to all interested parties, and opportunity for hearing, such escrow fund shall be used to:

1. Satisfy a money judgment rendered in the court hearing the matter, in favor of a victim of any offense for which the defendant has been convicted; and

2. Pay for legal representation of the defendant in criminal proceedings, including the appeals process. No more than twenty-five percent of the total proceeds in escrow may be used for legal representation.

C. At the end of the five-year period, the remaining proceeds shall be paid into the Criminal Injuries Compensation Fund. However, (i) if a civil action under this section is pending against the defendant, the proceeds shall be held in escrow until completion of the action or (ii) if the defendant has appealed his conviction and the appeals process is not final, the proceeds shall be held in escrow until the appeals process is final, and upon disposition of the charges favorable to the defendant, the Division shall immediately pay any money in the escrow account to the defendant.

(1990, c. 549; 1992, c. 681.)

§ 19.2-368.22. Actions to defeat chapter void.

Any action taken by any person convicted of a felony, whether by way of execution of a power of attorney, creation of corporate entities, or otherwise, to defeat the purpose of this chapter shall be void.

(1990, c. 549; 1992, c. 59.)

§ 19.2-270.1. Use of photographs as evidence in certain larceny and burglary prosecutions.

In any prosecution for larceny under the provisions of §§ 18.2-95, 18.2-96 or § 18.2-98, or for shoplifting under the provisions of § 18.2-103, or for burglary under the provisions of §§ 18.2-89, 18.2-90, 18.2-91 or § 18.2-92, photographs of the goods, merchandise, money or securities alleged to have been taken or converted shall be deemed competent evidence of such goods, merchandise, money or securities and shall be admissible in any proceeding, hearing or trial of the case to the same extent as if such goods, merchandise, money or securities had been introduced as evidence. Such photographs shall bear a written description of the goods, merchandise, money or securities alleged to have been taken or converted, the name of the owner of such goods, merchandise, money or securities and the manner of the identification of same by such owner, or the name of the place wherein the alleged offense occurred, the name of the accused, the name of the arresting or investigating police officer or conservator of the peace, the date of the photograph and the name of the photographer. Such writing shall be made under oath by the arresting or investigating police officer or conservator of the peace, and the photographs identified by the signature of the photographer. Upon the filing of such photograph and writing with the police authority or court holding such goods and merchandise as evidence, such goods or merchandise shall be returned to their owner, or the proprietor or manager of the store or establishment wherein the alleged offense occurred.

(1976, c. 577; 1985, c. 184; 1987, c. 493; 1995, c. 447.)

§ 19.2-270.2. Disposition of money, securities or documents seized upon arrest, etc., and pertinent as evidence.

A. When in the course of investigation or arrest, the investigating or arresting officer shall seize or come into the possession of moneys, cash, or negotiable or nonnegotiable instruments or securities, hereinafter called "moneys or securities," taken or retained unlawfully from a financial institution or other person, and such moneys or securities, or a portion thereof, shall be pertinent evidence in a pending prosecution or appeal therefrom, the officer or agency having possession thereof, may retain, pending such prosecution or appeal thereof, sufficient of such moneys or securities as shall be necessary to prove the crime of grand larceny or other crimes requiring a specific amount in value. The court upon motion of the attorney for the Commonwealth and for good cause shown may order the release of all moneys or securities, subject to the provisions of this section. The remaining excess moneys or securities, if any, may be released to the owner thereof, upon proper receipt therefor, which release shall be with the consent of the attorney for the Commonwealth. The officer or agency authorizing such release shall make an appropriate record of such moneys or securities released, including designation or copying of serial numbers, and such record or receipt shall be admissible into evidence in any proceeding, hearing or trial of the case to the same extent as if such moneys or securities had been introduced. Such record or receipt shall contain the name of the financial institution or person from whom such moneys or securities were taken, the place from which taken, the name of the accused, and the name of the arresting officer or officers coming into initial possession of such moneys or securities. Pictures shall be taken of any instruments or securities and such pictures shall be attached to the receipt or record above and shall contain further, in the case of such copying, the date of the photograph and the name of the photographer.

B. When in the course of investigation or arrest, the investigating or arresting officer seizes or comes into the possession of moneys or securities under the provisions of this section, and such moneys or securities, or a portion thereof, are introduced as an exhibit in a prosecution or appeal therefrom, the court may, with the consent of the attorney for the Commonwealth, authorize the clerk of the circuit court, upon all appeal rights being exhausted, to deposit such moneys or cash in an interest-bearing account.

(1980, c. 423; 1991, c. 680; 1995, c. 447.)

§ 19.2-305. Requiring fines, costs, restitution for damages, support or community services from probationer.

A. While on probation the defendant may be required to pay in one or several sums a fine or costs, or both such fine and costs, imposed at the time of being placed on probation as a condition of such probation, and the failure of the defendant to pay such fine or costs, or both such fine and costs, at the prescribed time or times may be deemed a breach of such probation. The provisions of this subsection shall also apply to any person ordered to pay costs pursuant to § 19.2-303.3.

B. A defendant placed on probation following conviction may be required to make at least partial restitution or reparation to the aggrieved party or parties for damages

or loss caused by the offense for which conviction was had, or may be required to provide for the support of his wife or others for whose support he may be legally responsible, or may be required to perform community services. The defendant may submit a proposal to the court for making restitution, for providing for support or for performing community services.

(Code 1950, § 53-274; 1962, c. 143; 1975, c. 495; 1977, c. 682; 1978, c. 716; 1984, c. 32; 1995, c. 485.)

§ 58.1-520. Definitions.

As used in this article:

"Claimant agency" means any administrative unit of state, county, city or town government, including department, institution, commission, authority, or the office of Executive Secretary of the Supreme Court, any circuit or district court and the Internal Revenue Service. All state agencies and institutions shall participate in the setoff program.

"Debtor" means any individual having a delinquent debt or account with any claimant agency which obligation has not been satisfied by court order, set aside by court order, or discharged in bankruptcy.

"Delinquent debt" means any liquidated sum due and owing any claimant agency, or any restitution ordered paid to a clerk of the court pursuant to Title 19.2, including any amount of court costs or fines which have accrued through contract, subrogation, tort, operation of law, or any other legal theory regardless of whether there is an outstanding judgment for that sum which is legally collectible and for which a collection effort has been or is being made.

"Mailing date of notice" means the date of notice appearing thereon.

"Refund" means any individual's Virginia state or local income tax refund payable pursuant to §§ 58.1-309 and 58.1-546. This term also includes any refund belonging to a debtor resulting from the filing of a joint income tax return or a refund belonging to a debtor resulting from the filing of a return where husband and wife have elected to file a combined return and separately state their Virginia taxable incomes under the provisions of § 58.1-324 B 2.

(Code 1950, § 58-19.7; 1981, c. 408; 1982, c. 621; 1983, c. 545; 1984, cc. 269, 675; 1986, c. 322; 1988, c. 544; 1989, cc. 77, 245; 1994, c. 197; 1996, cc. 363, 413.)

§ 58.1-520.1. Recovery of administrative costs.

Any county, city or town may collect, in addition to the amount of delinquent debt collected pursuant to the provisions of this article, the administrative costs associated with collection of the debt in an amount not to exceed twenty-five dollars per claim.

(1994, c. 484.)

§ 58.1-521. Remedy additional; mandatory usage; obtaining identifying information.

A. The collection remedy under this article is in addition to and not in substitution for any other remedy available by law.

B. Except for county, city or town governments, which may utilize the provisions of this article, all claimant agencies shall submit, for collection under the procedure established by this article, all delinquent debts which they are owed.

C. All claimant agencies, whenever possible, shall obtain the full name, social security number, address, and any other identifying information, required by rules promulgated by the Tax Commissioner for implementation of this article, from any person for whom the agencies provide any service or transact any business and who the claimant agencies can foresee may become a debtor under the terms of this article.

(Code 1950, § 58-19.8; 1981, c. 408; 1983, c. 258; 1984, cc. 675, 720; 1986, c. 322.)

§ 58.1-522. Participation in setoff program not permitted where debt below certain levels.

If the claimant agency determines that the administrative cost, as defined in the rules promulgated by the Tax Commissioner, of utilizing this article will exceed the amount of the delinquent debt, then such claimant agency shall not participate in the setoff program below such levels determined economically infeasible.

(Code 1950, § 58-19.9; 1981, c. 408; 1982, c. 621; 1984, cc. 675, 720.)

§ 58.1-523. Department to aid in collection of sums due claimant agencies through setoff.

Subject to the limitations contained in this article, the Department, upon request, shall render assistance in the collection of any delinquent account or debt owing to any claimant agency. This assistance shall be provided by setting off any refunds belonging to the debtor from the Department by the sum certified by the claimant agency as due and owing.

(Code 1950, § 58-19.10; 1981, c. 408; 1982, c. 621; 1984, c. 675.)

§ 58.1-524. Notification of Department by claimant agency; action of Department.

A. A claimant agency seeking to attempt collection of a delinquent debt through setoff shall notify the Department and supply information necessary to identify the debtor whose refund is sought to be setoff. Notification to the Department and the furnishing of identifying information must occur on or before a date specified by the Department. The claimant agency shall verify that the delinquent debt is valid before notifying the Department requesting setoff, and shall promptly notify the Department when subsequent payments or other events render all or a portion of the debt invalid.

B. The Department, upon receipt of notification, shall determine whether the debtor to the claimant agency is entitled to a refund from the Department. Upon determination by the Department that a debtor specified by the claimant agency qualifies for such a refund, the Department shall notify the claimant agency that a refund is pending, specify its sum, and indicate the debtor's address as listed on the tax return.

C. The Department, upon certification as hereinafter provided in this article, shall set off the certified debt against the refund to which the debtor would otherwise be entitled.

(Code 1950, § 58-19.11; 1981, c. 408; 1982, c. 621; 1984, c. 675; 1996, cc. 363, 413.)

§ 58.1-525. Notification of intention to set off and right to hearing.

A. The claimant agency, upon receipt of notification from the Department that a debtor is entitled to a refund, within ten days shall mail a written notification to the debtor at his or her last known address and shall send evidence of same in the manner required by rules promulgated by the Tax Commissioner to the Department of its assertion of rights to the refund or any part thereof. The notification shall inform the debtor of the claimant agency's intention to direct the Department to apply the refund or any portion thereof against the debt certified as due and owing.

B. The contents of the written notification to the debtor and the Department's notification of the setoff claim shall clearly set forth the basis for the claim to the refund, the intention to apply the refund against the debt to the claimant agency, the debtor's opportunity to give written notice of intent to contest the validity of the claim before the claimant agency within thirty days of the date of the mailing of the notice, the mailing address to which the application for a hearing must be sent, and the fact that failure to apply for a hearing in writing within the thirty-day period will be deemed a waiver of the opportunity to contest the claim causing final setoff by default.

C. The written application by the debtor for a hearing shall be effective upon mailing the application postage prepaid and properly addressed to the claimant agency.

(Code 1950, § 58-19.12; 1981, c. 408; 1982, c. 621; 1984, c. 675; 1986, c. 322; 1996, cc. 363, 413.)

§ 58.1-526. Hearing procedure.

A. If a claimant agency other than the Internal Revenue Service receives written application of the debtor's intention to contest at a hearing the claim upon which the intended setoff is based, it shall grant a hearing according to procedures established by that agency under its operating statutes to determine whether the claim is valid. Additionally, it shall be determined at the hearing whether the claimed sum asserted as due and owing is correct, and if not, an adjustment to the claim shall be made. A debtor of the Internal Revenue Service shall contest the claim only in accordance with federal law and procedures.

B. Pending final determination at the hearing of the validity of the debt asserted by the claimant agency, no action shall be taken in furtherance of collection through the setoff procedure allowed under this article.

C. No person hearing the debtor's application contesting the claimant agency's claim shall have been involved in the prior circumstances which have culminated in such dispute.

D. No issue may be considered at the hearing which has been previously litigated.

E. In the case of setoff arising out of delinquent local taxes, the scope of the hearing shall be limited to determining whether the setoff is a tax obligation that remains due and owing to the locality, and shall not address the underlying basis of the tax obligation.

(Code 1950, § 58-19.13; 1981, c. 408; 1982, c. 621; 1984, cc. 675, 720; 1996, cc. 363, 413; 1997, c. 496.)

§ 58.1-527. Appeals from hearings.

A. Within thirty days after the decision of the claimant agency upon a hearing pursuant to § 58.1-526 has become final, the debtor aggrieved thereby may secure judicial review thereof by commencing an action in the circuit court of the county or of the city, or if the city has no circuit court, then in the circuit court of the county in which such city is geographically located, in which the debtor resides or in which the principal office of the claimant agency is geographically located. In such action against the claimant agency for review of its decision, the claimant agency shall be named a defendant in a petition for judicial review. This section shall not be construed to confer jurisdiction on the circuit court to review questions of federal income tax law when the claimant agency is the Internal Revenue Service.

B. Such petition shall also state the grounds upon which review is sought and shall be served upon the head of the claimant agency or upon such person as the claimant agency may designate. With its answer, the claimant agency shall certify and file with the court all documents and papers and a transcript of all testimony taken in the matter, together with its findings of fact and decision therein. In any judicial proceedings under this article, the findings of the claimant agency as to the facts shall be sustained if supported by the evidence. Such actions and the questions so certified shall be heard in a summary manner at the earliest possible date. An appeal may be taken from the decision of such court to the Supreme Court in conformity with the general law governing appeals in equity cases.

C. It shall not be necessary in any proceeding under this section to enter exceptions to the rulings of the claimant agency, and no bond shall be required upon an appeal to any court.

D. Notwithstanding the other provisions of this section, if the claimant agency is otherwise subject to the Administrative Process Act (§ 2.2-4000 et seq.), appeals of such agency's decision as it relates to the debtor shall be held in accordance with Article ~~4 (§ 9-6.14:15~~5 (§ 2.2-4025 et seq.) of the Administrative Process Act.

(Code 1950, § 58-19.14; 1981, c. 408; 1982, c. 621; 1984, c. 675; 1996, cc. 363, 413, 573.)

Note: Underlined text and ~~struck-through~~ text indicate amendments made during the 2001 session of the General Assembly

§ 58.1-528. Certification of debt by claimant agency; finalization of setoff.

A. Upon final determination of the debt due and owing the claimant agency or upon the debtor's default for failure to comply with § 58.1-525, the claimant agency shall within twenty days notify the Department to setoff the refund against the debt. If the claimant agency fails to notify the Department within twenty days, the Department shall no longer be obligated to hold the refund for setoff.

B. Upon receipt by the Department of a notification of final determination and setoff from the claimant agency, the Department shall finalize the setoff by transferring the proceeds collected for credit or payment in accordance with the provisions of § 58.1-532 and by refunding any remaining balance to the debtor as if setoff had not occurred.

(Code 1950, § 58-19.15; 1981, c. 408; 1982, c. 621; 1984, c. 675; 1996, cc. 363, 413.)

§ 58.1-529. Notice of final setoff.

Upon the finalization of setoff under the provisions of this article, the Department shall notify the debtor in writing of the action taken along with an accounting of the action taken on any refund. If there is an outstanding balance after setoff, the notice under this section shall accompany the balance when disbursed.

(Code 1950, § 58-19.16; 1981, c. 408; 1984, c. 675.)

§ 58.1-530. Priorities in claims to be setoff.

Priority in multiple claims to refunds allowed to be setoff under the provisions of this article shall be in the order in time which a claimant agency has filed a written notice with the Department of its intention to effect collection through setoff under this article. However, claims filed by any court or administrative unit of state government shall have priority over claims filed by any county, city or town; and claims filed by any court, administrative unit of state government, county, city or town shall have priority over claims filed by the Internal Revenue Service. Notwithstanding the priority set forth above according to time of filing, the Department has priority over all other claimant agencies for collection by setoff whenever it is a competing agency for a refund.

(Code 1950, § 58-19.17; 1981, c. 408; 1983, c. 545; 1984, c. 675; 1996, cc. 363, 413.)

§ 58.1-531. Disposition of proceeds collected; Department's annual statement of costs.

A. Upon effecting final setoffs, the Department shall periodically pay to the respective claimant agencies the proceeds collected on their behalf. However, with respect to amounts collected under this article for any county, city or town, the Department is authorized to deduct a sum, not in excess of twenty-five percent of the amount collected, to offset the cost of making such collection.

B. The Department shall provide the Governor and the chairmen of the House and Senate Finance Committees and the House Appropriations Committee with an annual statement setting forth the Department's cost of administering this article.

(Code 1950, § 58-19.18; 1981, c. 408; 1982, c. 621; 1983, c. 545; 1984, cc. 675, 720; 1988, c. 331; 1989, c. 77.)

§ 58.1-531.1. Errors in setoff program.

If as a result of an error by the Department of Taxation or the claimant agency a taxpayer has his refund set off erroneously and is denied all or a portion of his income tax refund, interest shall be paid to the taxpayer at the rate provided in § 58.1-15 and shall accrue in the manner provided in § 58.1-1833.

(1988, c. 331; 1989, c. 77.)

§ 58.1-532. Accounting to claimant agency; confidentiality; credit to debtor's obligation.

A. Simultaneously with the transmittal of proceeds collected to a claimant agency, the Department shall provide the agency with an accounting of the setoffs finalized for which payment is being made. The accounting, whenever possible, shall include the full names of the debtors and the debtors' social security numbers. No federal tax return information shall be divulged by the Department under any circumstances.

B. Upon receipt by a claimant agency of proceeds collected on a claimant agency's behalf by the Department and an accounting of the proceeds as specified under this section, the claimant agency shall credit the debtor's obligation.

(Code 1950, § 58-19.19; 1981, c. 408; 1982, c. 621; 1984, c. 675.)

§ 58.1-533. Confidentiality exemption; use of information obtained.

A. Notwithstanding § 58.1-3 or any other provision of law prohibiting disclosure by the Department of the contents of taxpayer records or information and notwithstanding any confidentiality statute of any claimant agency, all information exchanged among the Department, claimant agency, and the debtor necessary to accomplish and effectuate the intent of this article shall be lawful.

B. The information obtained by a claimant agency from the Department in accordance with the exemption allowed by subsection A shall only be used by a claimant agency in the pursuit of its debt collection duties and practices and any person employed by, or formerly employed by, a claimant agency who discloses any such information for any other purpose, except as otherwise allowed by § 58.1-3, shall be penalized in accordance with the terms of that section.

(Code 1950, § 58-19.20; 1981, c. 408; 1982, c. 621; 1984, c. 675.)

§ 58.1-534. Rules and regulations.

The Tax Commissioner shall promulgate all rules which he deems necessary in order to implement the intent of this article.

(Code 1950, § 58-19.21; 1981, c. 408; 1984, cc. 675, 720.)

§ 58.1-535. Application of funds on deposit.

A. In addition to the collection remedy provided in this article, if a claimant agency has on deposit any funds which are due to the debtor, the claimant agency may apply such funds to the payment of any delinquent debt which the debtor owes to the claimant agency, provided that the claimant agency first provides written notification to the debtor of its intent to apply the funds against the debt.

B. The contents of the written notification to the debtor shall clearly set forth the basis for the claim to the funds on deposit, the intention to apply the funds against the debt to the claimant agency, and the right of the debtor to contest the validity of the claim before the claimant agency.

C. If as the result of an error by the claimant agency a debtor is denied all or a portion of his funds under the provisions of this section, interest shall be paid by the claimant agency to the debtor at the overpayment rate provided in § 58.1-15 for the time such funds were denied, except that a county, city or town shall pay interest in the manner prescribed in § 58.1-3916 or § 58.1-3918.

D. As used in this section:

"Debtor" means any individual, business or group having a delinquent debt or account with any claimant agency which obligation has not been satisfied by court order, set aside by court order, or discharged in bankruptcy.

"Funds on deposit" means any funds of a debtor that a claimant agency may have in its possession, including overpayments of taxes and any funds due to a debtor arising from a contractual agreement with a claimant agency.

(1988, cc. 563, 768; 1989, c. 77; 1999, c. 631.)

Notices

§ 18.2-465.1. Penalizing employee for court appearance or service on jury panel.

Any person who is summoned to serve on jury duty or any person, except a defendant in a criminal case, who is summoned or subpoenaed to appear in any court of law or equity when a case is to be heard shall neither be discharged from employment, nor have any adverse personnel action taken against him, nor shall he be required to use sick leave or vacation time, as a result of his absence from employment due to such jury duty or court appearance, upon giving reasonable notice to his employer of such court appearance or summons. Any employer violating the provisions of this section shall be guilty of a Class 3 misdemeanor.

(1981, c. 609; 1985, c. 436; 1988, c. 415; 2000, c. 295.)

§ 2.2-511. (Effective October 1, 2001; formerly 2.1-124) Criminal cases.

A. Unless specifically requested by the Governor to do so, the Attorney General shall have no authority to institute or conduct criminal prosecutions in the circuit courts of the Commonwealth except in cases involving (i) violations of the Alcoholic Beverage Control Act (§ 4.1-100 et seq.), (ii) violation of laws relating to elections and the electoral process as provided in § 24.2-104, (iii) violation of laws relating to motor vehicles and their operation, (iv) the handling of funds by a state bureau, institution, commission or department, (v) the theft of state property, (vi) violation of the criminal laws involving child pornography and sexually explicit visual material involving children, (vii) the practice of law without being duly authorized or licensed or the illegal practice of law, (viii) with the concurrence of the local attorney for the Commonwealth, violations of the Virginia Computer Crimes Act (§ 18.2-152.1 et seq.), (ix) with the concurrence of the local attorney for the Commonwealth, violations of the Air Pollution Control Law (§ 10.1-1300 et seq.), the Virginia Waste Management Act (§ 10.1-1400 et seq.), and the State Water Control Law (§ 62.1-44.2 et seq.), (x) with the concurrence of the local attorney for the Commonwealth, violations of Chapters 2 (§ 18.2-18 et seq.), 3 (§ 18.2-22 et seq.), and 10 (§ 18.2-434 et seq.) of Title 18.2, if such crimes relate to violations of law listed in clause (ix) of this subsection, and (xi) with the concurrence of the local attorney for the Commonwealth, criminal violations by Medicaid providers or their employees in the course of doing business, in which cases the Attorney General may leave the prosecution to the local attorney for the Commonwealth, or he may institute proceedings by information, presentment or indictment, as appropriate, and conduct the same.

In all other criminal cases in the circuit courts, except where the law provides otherwise, the authority of the Attorney General to appear or participate in the proceedings shall not attach unless and until a petition for appeal has been granted by the Court of Appeals or a writ of error has been granted by the Supreme Court. In all criminal cases before the Court of Appeals or the Supreme Court in which the Commonwealth is a party or is directly interested, the Attorney General shall appear and represent the Commonwealth. In any criminal case in which a petition for appeal has been granted by the Court of Appeals, the Attorney General shall continue to represent the Commonwealth in any further appeal of a case from the Court of Appeals to the Supreme Court.

B. The Attorney General shall, upon request of a person who was the victim of a crime and subject to such reasonable procedures as the Attorney General may require, ensure that such person is given notice of the filing and disposition of any appeal or habeas corpus proceeding involving the cases in which such person was a victim. For the purposes of this section, a victim is an individual who has suffered physical, psychological or economic harm as a direct result of the commission of a crime; a spouse, child, parent or legal guardian of a minor or incapacitated victim; or a spouse, child, parent or legal guardian of a victim of a homicide. Nothing in this subsection shall confer upon any person a right to appeal or modify any decision in a criminal, appellate or habeas corpus proceeding; abridge any right guaranteed by law; or create any cause of action for damages against the Commonwealth or any of its political subdivisions, the Attorney General or any of his employees or agents, any other officer, employee or agent of the Commonwealth or any of its political subdivisions, or any officer of the court. (Code 1950, § 2-90; 1958, c. 235; 1966, c. 677, § 2.1-124; 1974, c. 490; 1975, c. 42; 1984, c. 703; 1993, c. 866; 1995, cc. 565, 839; 1997, c. 801; 1998, cc. 507, 510; 2000, c. 239; 2001, c. 844.)

Victim Input

§ 16.1-273. Court may require investigation of social history and preparation of victim impact statement.

A. When a juvenile and domestic relations district court or circuit court has adjudicated any case involving a child subject to the jurisdiction of the court hereunder, except for a traffic violation, a violation of the game and fish law or a violation of any city ordinance regulating surfing or establishing curfew violations, the court before final disposition thereof may require an investigation, which (i) shall include a drug screening and (ii) may include the physical, mental and social conditions, including an assessment of any affiliation with a youth gang as defined in § 16.1-299.2, and personality of the child and the facts and circumstances surrounding the violation of law. However, in the case of a juvenile adjudicated delinquent on the basis of an act committed on or after January 1, 2000, which would be a felony if committed by an adult, or a violation under Article 1 (§ 18.2-247 et seq.) or Article 1.1 (§ 18.2-265.1 et seq.) of Chapter 7 of Title 18.2 and such offense would be punishable as a Class 1 or Class 2 misdemeanor if committed by an adult, the court shall order the juvenile to undergo a drug screening. If the drug screening indicates that the juvenile has a substance abuse or dependence problem, an assessment shall be completed by a certified substance abuse counselor as defined in § 54.1-3500 employed by the Department of Juvenile Justice or by a locally operated court services unit or by an individual employed by or currently under contract to such agencies and who is specifically trained to conduct such assessments under the supervision of such counselor.

B. The court also shall, on motion of the attorney for the Commonwealth with the consent of the victim, or may in its discretion, require the preparation of a victim impact statement in accordance with the provisions of § 19.2-299.1 if the court determines that

the victim may have suffered significant physical, psychological or economic injury as a result of the violation of law.

(Code 1950, § 16.1-164; 1956, c. 555; 1972, cc. 672, 835; 1973, c. 440; 1977, cc. 559, 627; 1993, c. 603; 1998, cc. 783, 840; 1999, cc. 350, 891, 913; 2000, cc. 1020, 1041.)

§ 19.2-264.4. Sentence proceeding.

A. Upon a finding that the defendant is guilty of an offense which may be punishable by death, a proceeding shall be held which shall be limited to a determination as to whether the defendant shall be sentenced to death or life imprisonment. Upon request of the defendant, a jury shall be instructed that for all Class 1 felony offenses committed after January 1, 1995, a defendant shall not be eligible for parole if sentenced to imprisonment for life. In case of trial by jury, where a sentence of death is not recommended, the defendant shall be sentenced to imprisonment for life.

A1. In any proceeding conducted pursuant to this section, the court shall permit the victim, as defined in § 19.2-11.01, upon the motion of the attorney for the Commonwealth, and with the consent of the victim, to testify in the presence of the accused regarding the impact of the offense upon the victim. The court shall limit the victim's testimony to the factors set forth in clauses (i) through (vi) of subsection A of § 19.2-299.1.

B. In cases of trial by jury, evidence may be presented as to any matter which the court deems relevant to sentence, except that reports under the provisions of § 19.2-299, or under any rule of court, shall not be admitted into evidence.

Evidence which may be admissible, subject to the rules of evidence governing admissibility, may include the circumstances surrounding the offense, the history and background of the defendant, and any other facts in mitigation of the offense. Facts in mitigation may include, but shall not be limited to, the following: (i) the defendant has no significant history of prior criminal activity, (ii) the capital felony was committed while the defendant was under the influence of extreme mental or emotional disturbance, (iii) the victim was a participant in the defendant's conduct or consented to the act, (iv) at the time of the commission of the capital felony, the capacity of the defendant to appreciate the criminality of his conduct or to conform his conduct to the requirements of law was significantly impaired, (v) the age of the defendant at the time of the commission of the capital offense, or (vi) mental retardation of the defendant.

C. The penalty of death shall not be imposed unless the Commonwealth shall prove beyond a reasonable doubt that there is a probability based upon evidence of the prior history of the defendant or of the circumstances surrounding the commission of the offense of which he is accused that he would commit criminal acts of violence that would constitute a continuing serious threat to society, or that his conduct in committing the offense was outrageously or wantonly vile, horrible or inhuman, in that it involved torture, depravity of mind or aggravated battery to the victim.

D. The verdict of the jury shall be in writing, and in one of the following forms:

(1) "We, the jury, on the issue joined, having found the defendant guilty of (here set out statutory language of the offense charged) and that (after consideration of his prior

history that there is a probability that he would commit criminal acts of violence that would constitute a continuing serious threat to society) or his conduct in committing the offense is outrageously or wantonly vile, horrible or inhuman in that it involved (torture) (depravity of mind) (aggravated battery to the victim), and having considered the evidence in mitigation of the offense, unanimously fix his punishment at death.

Signed....., foreman"

or

(2) "We, the jury, on the issue joined, having found the defendant guilty of (here set out statutory language of the offense charged) and having considered all of the evidence in aggravation and mitigation of such offense, fix his punishment at imprisonment for life.

Signed....., foreman"

E. In the event the jury cannot agree as to the penalty, the court shall dismiss the jury, and impose a sentence of imprisonment for life.

(1977, c. 492; 1980, c. 160; 1990, cc. 316, 754; 1998, c. 485; 2000, c. 838.)

§ 19.2-295.3. Admission of victim impact testimony.

In cases of trial by jury or by the court, upon a finding that the defendant is guilty of a felony, the court shall permit the victim, as defined in § 19.2-11.01, upon motion of the attorney for the Commonwealth, to testify in the presence of the accused regarding the impact of the offense upon the victim. The court shall limit the victim's testimony to the factors set forth in clauses (i) through (vi) of subsection A of § 19.2-299.1. In the case of trial by jury, the court shall permit the victim to testify at the sentencing hearing conducted pursuant to § 19.2-295.1 or in the case of trial by the court, the court shall permit the victim to testify before the court prior to the imposition of a sentence. Victim impact testimony in all capital murder cases shall be admitted in accordance with § 19.2-264.4.

(1998, c. 485.)

Courtroom Assistance

§ 19.2-11.2. Crime victim's right to nondisclosure of certain information; exceptions; testimonial privilege.

Upon request of any crime victim, neither a law-enforcement agency, the attorney for the Commonwealth, a court nor the Department of Corrections, nor any employee of any of them, may disclose, except among themselves, the residential address, telephone number, or place of employment of the victim or a member of the victim's family, except to the extent that disclosure is (i) of the site of the crime, (ii) required by law or Rules of the Supreme Court, (iii) necessary for law-enforcement purposes, or (iv) permitted by the court for good cause.

Except with the written consent of the victim, a law-enforcement agency may not disclose to the public information which directly or indirectly identifies the victim of a crime involving any sexual assault or abuse, except to the extent that disclosure is (i) of the site of the crime, (ii) required by law, (iii) necessary for law-enforcement purposes, or (iv) permitted by the court for good cause.

Nothing herein shall limit the right to examine witnesses in a court of law or otherwise affect the conduct of any criminal proceeding.

(1994, cc. 845, 931.)

§ 19.2-269.2. Nondisclosure of addresses or telephone numbers of crime victims and witnesses.

During any criminal proceeding, upon motion of the defendant or the attorney for the Commonwealth, a judge may prohibit testimony as to the current residential or business address or telephone number of a victim or witness if the judge determines that this information is not material under the circumstances of the case.

(1989, c. 170; 1994, cc. 845, 931.)

§ 19.2-164. Interpreters for non-English-speaking persons.

In any criminal case in which a non-English-speaking person is the accused, an interpreter for the non-English-speaking person shall be appointed. In any criminal case in which a non-English-speaking person is a victim or witness, an interpreter shall be appointed by the judge of the court in which the case is to be heard unless the court finds that the person does not require the services of a court-appointed interpreter. An English-speaking person fluent in the language of the country of the accused, a victim or a witness shall be appointed by the judge of the court in which the case is to be heard, unless such person obtains an interpreter of his own choosing who is approved by the court as being competent. The compensation of an interpreter appointed by the court pursuant to this section shall be fixed by the court and shall be paid from the general fund of the state treasury as part of the expense of trial. Such fee shall not be assessed as part of the costs. Whenever a person communicates through an interpreter to any person under such circumstances that the communication would be privileged, and such person could not be compelled to testify as to the communications, this privilege shall also apply to the interpreter. The provisions of this section shall apply in both circuit courts and district courts.

§ 19.2-164.1. Interpreters for the deaf.

In any criminal case in which a deaf person is the accused, an interpreter for the deaf person shall be appointed. In any criminal case in which a deaf person is the victim or a witness, an interpreter for the deaf person shall be appointed by the court in which

the case is to be heard unless the court finds that the deaf person does not require the services of a court-appointed interpreter and the deaf person waives his rights. Such interpreter shall be procured by the judge of the court in which the case is to be heard through the Department for the Deaf and Hard-of-Hearing.

The compensation of an interpreter appointed by the court pursuant to this section shall be fixed by the court and paid from the general fund of the state treasury as part of the expense of trial. Such fee shall not be assessed as part of the costs.

Any person entitled to the services of an interpreter under this section may waive these services for all or a portion of the proceedings. Such a waiver shall be made by the person upon the record after an opportunity to consult with legal counsel. A judicial officer, utilizing an interpreter obtained in accordance with this section, shall explain to the deaf person the nature and effect of any waiver. Any waiver shall be approved in writing by the deaf person's legal counsel. If the person does not have legal counsel, approval shall be made in writing by a judicial officer. A person who waives his right to an interpreter may provide his own interpreter at his own expense without regard to whether the interpreter is qualified under this section.

The provisions of this section shall apply in both circuit courts and district courts.

Whenever a person communicates through an interpreter to any person under such circumstances that the communication would be privileged, and such person could not be compelled to testify as to the communications, this privilege shall also apply to the interpreter.

In any judicial proceeding, the judge on his own motion or on the motion of a party to the proceeding may order all of the testimony of a deaf person and the interpretation thereof to be visually electronically recorded for use in verification of the official transcript of the proceedings.

(Code 1950, § 19.1-246.1; 1966, c. 240; 1974, c. 110; 1975, c. 495; 1978, c. 601; 1982, c. 444; 1985, c. 396; 1995, c. 546; 1996, c. 402.)

§ 18.2-67.8. Closed preliminary hearings.

In preliminary hearings for offenses charged under this article or under §§ 18.2-361, 18.2-366, 18.2-370 or § 18.2-370.1, the court may, on its own motion or at the request of the Commonwealth, the complaining witness, the accused, or their counsel, exclude from the courtroom all persons except officers of the court and persons whose presence, in the judgment of the court, would be supportive of the complaining witness or the accused and would not impair the conduct of a fair hearing.

(1981, c. 397; 1993, c. 440.)

§ 18.2-67.9. Testimony by child victims and witnesses using two-way closed-circuit television.

A. The provisions of this section shall apply to an alleged victim who was fourteen years of age or under at the time of the alleged offense and is sixteen or under at

the time of the trial and to a witness who is fourteen years of age or under at the time of the trial.

In any criminal proceeding, including preliminary hearings, involving an alleged offense against a child, relating to a violation of the laws pertaining to kidnapping (§ 18.2-47 et seq.), criminal sexual assault (§ 18.2-61 et seq.) or family offenses pursuant to Article 4 (§ 18.2-362 et seq.) of Chapter 8 of Title 18.2, or involving an alleged murder of a person of any age, the attorney for the Commonwealth or the defendant may apply for an order from the court that the testimony of the alleged victim or a child witness be taken in a room outside the courtroom and be televised by two-way closed-circuit television. The party seeking such order shall apply for the order at least seven days before the trial date or at least seven days before such other preliminary proceeding to which the order is to apply.

~~A1. The provisions of this section shall apply to the following:~~

~~1. An alleged victim who was fourteen years of age or under at the time of the alleged offense and is sixteen or under at the time of the trial; and~~

~~2. Any child witness who is fourteen years of age or under at the time of the trial.~~

B. The court may order that the testimony of the child be taken by closed-circuit television as provided in ~~subsections A and A1~~subsection A if it finds that the child is unavailable to testify in open court in the presence of the defendant, the jury, the judge, and the public, for any of the following reasons:

1. The child's persistent refusal to testify despite judicial requests to do so;

2. The child's substantial inability to communicate about the offense; or

3. The substantial likelihood, based upon expert opinion testimony, that the child will suffer severe emotional trauma from so testifying.

Any ruling on the child's unavailability under this subsection shall be supported by the court with findings on the record or with written findings in a court not of record.

C. In any proceeding in which closed-circuit television is used to receive testimony, the attorney for the Commonwealth and the defendant's attorney shall be present in the room with the child, and the child shall be subject to direct and cross-examination. The only other persons allowed to be present in the room with the child during his testimony shall be those persons necessary to operate the closed-circuit equipment, and any other person whose presence is determined by the court to be necessary to the welfare and well-being of the child.

D. The child's testimony shall be transmitted by closed-circuit television into the courtroom for the defendant, jury, judge and public to view. The defendant shall be provided with a means of private, contemporaneous communication with his attorney during the testimony.

E. Notwithstanding any other provision of law, none of the cost of the two-way closed-circuit television shall be assessed against the defendant.

(1988, c. 846; 1999, c. 668; 2001, c. 410.)

Other Selected Victims' Rights Related Statutes Referenced in the Crime Victim and Witness Rights Act but not Amended by the Act

§ 9.1-101. (Effective October 1, 2001; formerly 9-169) Definitions.

~~The following words, whenever used in this chapter,~~As used in this chapter or in Chapter 23 (§ 19.2-387 et seq.) of Title 19.2,~~shall have the following meanings,~~ unless the context ~~otherwise requires:~~requires a different meaning:

~~1.~~ "Administration of criminal justice" means performance of any activity directly involving the detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders or the collection, storage, and dissemination of criminal history record information.

~~2.~~ "Board" means the Criminal Justice Services Board.

~~3. "Criminal justice agency" means (i) a court or any other governmental agency or subunit thereof which as its principal function performs the administration of criminal justice and any other agency or subunit thereof which performs criminal justice activities, but only to the extent that it does so and (ii) for the purposes of Chapter 23 of Title 19.2, any private corporation or agency which, within the context of its criminal justice activities employs officers appointed under § 15.2-1737, or special conservators of the peace or special policemen appointed under Chapter 2 (§ 19.2-12 et seq.) of Title 19.2, provided that (a) such private corporation or agency requires its officers, special conservators or special policemen to meet compulsory training standards established by the Criminal Justice Services Board and submits reports of compliance with the training standards and (b) the private corporation or agency complies with the provisions of Article 3 (§ 9-184 et seq.) of Chapter 27 of Title 9 but only to the extent that the private corporation or agency so designated as a "criminal justice agency" performs criminal justice activities. "Criminal justice agency" includes any program certified by the Commission on VASAP pursuant to § 18.2-271.2.~~"Conviction data" means information in the custody of any criminal justice agency relating to a judgment of conviction, and the consequences arising therefrom, in any court.

"Correctional status information" means records and data concerning each condition of a convicted person's custodial status, including probation, confinement, work release, study release, escape, or termination of custody through expiration of sentence, parole, pardon, or court decision.

~~4.~~ "Criminal history record information" means records and data collected by criminal justice agencies on adult individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, informations, or other formal charges, and any disposition arising therefrom. The term shall not include juvenile record information which is controlled by Chapter 11 (§ 16.1-226 et seq.) of Title 16.1, criminal justice intelligence information, criminal justice investigative information, or correctional status information.

~~5. "Correctional status information" means records and data concerning each condition of a convicted person's custodial status, including probation, confinement, work release, study release, escape, or termination of custody through expiration of sentence, parole, pardon, or court decision.~~"Criminal justice agency" means (i) a court or any other governmental agency or subunit thereof which as its principal function performs the administration of criminal justice and any other agency or subunit thereof which performs criminal justice activities, but only to the extent that it does so and (ii) for the purposes of Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, any private corporation or agency which, within the context of its criminal justice activities employs officers appointed under § 15.2-1737, or special conservators of the peace or special policemen appointed under Chapter 2 (§ 19.2-12 et seq.) of Title 19.2, provided that (a) such private corporation or agency requires its officers, special conservators or special policemen to meet compulsory training standards established by the Criminal Justice Services Board and submits reports of compliance with the training standards and (b) the private corporation or agency complies with the provisions of Article 3 (§ 9.1-126 et seq.) of this chapter, but only to the extent that the private corporation or agency so designated as a criminal justice agency performs criminal justice activities.
"Criminal justice agency" includes any program certified by the Commission on VASAP pursuant to § 18.2-271.2.

~~6.~~ "Criminal justice information system" means a system including the equipment, facilities, procedures, agreements, and organizations thereof, for the collection, processing, preservation, or dissemination of criminal history record information. The operations of the system may be performed manually or by using electronic computers or other automated data processing equipment.

~~7.~~ "Department" means the Department of Criminal Justice Services.

~~8.~~ "Dissemination" means any transfer of information, whether orally, in writing, or by electronic means. The term ~~does~~shall not include access to the information by officers or employees of a criminal justice agency maintaining the information who have both a need and right to know the information.

~~9.~~ "Law-enforcement officer" means any full-time or part-time employee of a police department or sheriff's office which is a part of or administered by the Commonwealth or any political subdivision thereof, and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of ~~this~~the Commonwealth, and shall include any (i) special agent of the Department of Alcoholic Beverage ~~Control, any~~Control; (ii) police agent appointed under the provisions of § 56-353~~, any~~; (iii) officer of the Virginia Marine ~~Patrol, any~~Patrol; (iv) game warden who is a full-time sworn member of the enforcement division of the Department of Game and Inland ~~Fisheries, any~~Fisheries; (v) agent, investigator, or inspector appointed under § ~~56-334 or any~~56-334; or (vi) investigator who is a full-time sworn member of the security division of the State Lottery Department. Part-time employees are those compensated officers who are not full-time employees as defined by the employing police department or sheriff's office. Full-time sworn members of the enforcement division of the Department of Motor Vehicles meeting the Department of Criminal Justice Services qualifications shall be deemed to be "law-enforcement officers" when fulfilling their duties pursuant to § 46.2-217.

~~10. "Conviction data" means information in the custody of any criminal justice agency relating to a judgment of conviction, and the consequences arising therefrom, in any court.~~

~~.~~(1981, c. 632, § 9-169; 1982, c. 419; 1983, c. 357; 1984, c. 543; 1989, c. 233; 1991, c. 338; 1992, cc. 422, 569; 1993, cc. 533, 622, 866; 2000, c. 426; 2001, c. 844.)

§ 9.1-104. (Effective October 1, 2001; formerly 9-173.3) Establishment of victim and witness assistance programs; purpose; ~~rules and regulations~~ guidelines.

A. The Department ~~of Criminal Justice Services~~ shall ~~promulgate rules and regulations,~~ adopt guidelines, the purpose of which shall be to make funds available to local governments for establishing, operating and maintaining victim and witness assistance programs which provide services to the victims of crime and witnesses in the criminal justice system.

B. The Department shall establish a grant procedure to govern funds awarded for this purpose.

(1984, c. 561, § 9-173.3; 2001, c. 844.)

§ 19.2-264.5. Post-sentence reports.

When the punishment of any person has been fixed at death, the court shall, before imposing sentence, direct a probation officer of the court to thoroughly investigate the history of the defendant and any and all other relevant facts, to the end that the court may be fully advised as to whether the sentence of death is appropriate and just. Reports shall be made, presented and filed as provided in § 19.2-299 except that, notwithstanding any other provision of law, such reports shall in all cases contain a Victim Impact Statement. Such statement shall contain the same information and be prepared in the same manner as Victim Impact Statements prepared pursuant to § 19.2-299.1. After consideration of the report, and upon good cause shown, the court may set aside the sentence of death and impose a sentence of imprisonment for life.

(1977, c. 492; 1993, c. 978.)

§ 53.1-159. Mandatory release on parole.

Every person who is sentenced and committed under the laws of the Commonwealth to the Department of Corrections or as provided for in §§ 19.2-308.1, 53.1-152 or § 53.1-153 shall be released on parole by the Virginia Parole Board six months prior to his date of final release. Each person so sentenced or committed, however, shall serve a minimum of three months of his sentence prior to such a release. Persons who are so released on parole shall be subject to a minimum of six months' supervision and an additional period of parole ending on the date upon which the parolee would have served the maximum term of confinement, or any period the Board otherwise deems appropriate in accordance

with § 53.1-156. Such persons shall also be subject, for the entire period of parole fixed by the Board, to such terms and conditions prescribed by the Board in accordance with § 53.1-157.

Notwithstanding the provisions of the preceding paragraph, if within thirty days of a release scheduled pursuant to this section, new information is presented to the Board which gives the Board reasonable cause to believe that the release poses a clear and present danger to the life or physical safety of any person, the Board may delay the release for up to six months to investigate the matter and to refer it to law-enforcement, mental health or other appropriate authorities for investigation and any other appropriate action by such authorities.

No person released on parole pursuant to § 53.1-136, and whose parole is subsequently revoked, shall be released on parole pursuant to this section until at least six months have elapsed from the date of the decision revoking his parole. No person released on parole pursuant to this section, whose parole is subsequently revoked, shall thereafter be released on parole pursuant to this section. Final discharge may be extended to require the prisoner to serve the full portion of the term imposed by the sentencing court which was unexpired when the prisoner was released on parole.

For purposes of this section, (i) "maximum term of confinement" means the maximum term of incarceration established by law as punishment for the offense, (ii) "mandatory release date" means that date which is six months prior to the scheduled date of release and takes into consideration good conduct credits, and (iii) "final discharge" and "discharge from parole" mean that a prisoner is released from confinement having satisfied the full term imposed by the sentencing court without regard to good conduct credit. Nothing contained herein shall be construed to create a right or entitlement to parole.

(Code 1950, § 53-251.3; 1979, c. 415; 1981, cc. 20, 392; 1982, c. 636; 1985, c. 175; 1987, c. 668; 1991, c. 410; 1994, c. 894.)

Other Selected Victims' Rights Related Statutes

§ 8.01-9. Guardian ad litem for persons under disability; when guardian ad litem need not be appointed for person under disability.

A. A suit wherein a person under a disability is a party defendant shall not be stayed because of such disability, but the court in which the suit is pending, or the clerk thereof, shall appoint a discreet and competent attorney-at-law as guardian ad litem to such defendant, whether the defendant has been served with process or not. If no such attorney is found willing to act, the court shall appoint some other discreet and proper person as guardian ad litem. Any guardian ad litem so appointed shall not be liable for costs. Every guardian ad litem shall faithfully represent the estate or other interest of the person under a disability for whom he is appointed, and it shall be the duty of the court to see that the interest of the defendant is so represented and protected. Whenever the court is of the opinion that the interest of the defendant so requires, it shall remove any guardian ad litem and appoint another in his stead. When, in any case, the court is

satisfied that the guardian ad litem has rendered substantial service in representing the interest of the person under a disability, it may allow the guardian reasonable compensation therefor, and his actual expenses, if any, to be paid out of the estate of the defendant. However, if the defendant's estate is inadequate for the purpose of paying compensation and expenses, all, or any part thereof, may be taxed as costs in the proceeding or, in the case of proceedings to adjudicate a person under a disability as an habitual offender pursuant to former § 46.2-351.2 or former § 46.2-352, shall be paid by the Commonwealth out of the state treasury from the appropriation for criminal charges. In a civil action against an incarcerated felon for damages arising out of a criminal act, the compensation and expenses of the guardian ad litem shall be paid by the Commonwealth out of the state treasury from the appropriation for criminal charges. If judgment is against the incarcerated felon, the amount allowed by the court to the guardian ad litem shall be taxed against the incarcerated felon as part of the costs of the proceeding, and if collected, the same shall be paid to the Commonwealth.

B. Notwithstanding the provisions of subsection A or the provisions of any other law to the contrary, in any suit wherein a person under a disability is a party~~defendant~~ and is represented by an attorney-at-law duly licensed to practice in this Commonwealth, who shall have entered of record an appearance for such person, no guardian ad litem need be appointed for such person unless the court determines that the interests of justice require such appointment; or unless a statute applicable to such suit expressly requires ~~an answer to be filed~~that the person under a disability be represented by a guardian ad litem. The court may, in its discretion, appoint the attorney of record for the person under a disability as his guardian ad litem, in which event the attorney shall perform all the duties and functions of guardian ad litem.

Any judgment or decree rendered by any court against a person under a disability without a guardian ad litem, but in compliance with the provisions of this subsection B, shall be as valid as if the guardian ad litem had been appointed.

(Code 1950, §§ 8-88, 8-88.1; 1972, c. 720; 1977, c. 617; 1996, c. 887; 1999, cc. 945, 955, 987; 2001, c. 127.)

§ 8.01-446. Clerks to keep judgment dockets; what judgments to be docketed therein.

The clerk of each court of every circuit shall keep in his office, in a well-bound book, a judgment docket, in which he shall docket, without delay, any judgment for a specific amount of money rendered in his court, and shall likewise docket without delay any judgment for a specific amount of money rendered in this Commonwealth by any other court of this Commonwealth or federal court, when he shall be required so to do by any person interested, on such person delivering to him an authenticated legible abstract of it and also upon the request of any person interested therein, any such judgment rendered by a district court judge whose book has been filed in his office under the provisions of Title 16.1 or of which a legible abstract is delivered to him certified by the district court judge who rendered it; provided, that judgments docketed in the clerk's office of the Circuit Court of the City of Williamsburg and the County of James City shall be docketed and indexed in one book. A specific judgment for money shall state that

it is a judgment for money in a specific amount in favor of a named party, against a named party, with that party's address, if known, and it shall further state the time from which the judgment bears interest. An order of restitution docketed pursuant to § 19.2-305.2 shall have the same force and effect as a specific judgment for money and shall state that it is an order of restitution in a specific amount in favor of a named party, against a named party, with that party's address, if known, and it shall further state the time from which the judgment bears interest. If the clerk determines that an abstract is not legible, the clerk shall refuse to record it and shall return it to the person who tendered the abstract for recording.

(Code 1950, § 8-373; 1952, c. 438; 1962, c. 568; 1973, c. 544; 1975, cc. 182, 575; 1977, c. 617; 1993, c. 412; 1994, c. 538; 1995, c. 434; 1997, c. 579.)

§ 8.01-449. How judgments are docketed.

The judgment docket required by § 8.01-446 may be kept in a well-bound book, or any other media permitted by § 17.1-240. The date and time of docketing shall be recorded with each judgment docketed. The clerk of the circuit court of any county using card files on July 1, 1975, may continue to use the card file system. The docketing may be done by copying the wording of the judgment order verbatim or by abstracting the information therefrom into fixed columns of a book or into fixed fields of an electronic data storage system. Where a procedural microphotographic system is used, the docketing may be done by recording and storing a retrievable image of the judgment order, judgment abstract, or other source document such as a certificate of assignment or release. Where an electronic imaging system is used, the document image shall be stored in a data format which permits recall of the image.

Where a well-bound book is used for the judgment docket there shall be stated in separate columns (i) the date and amount of the judgment, (ii) the time from which it bears interest, (iii) the costs, (iv) the full names of all the parties thereto, including the address, date of birth and social security number, if known, of each party against whom judgment is rendered, (v) the alternative value of any specific property recovered by it, (vi) the date and the time of docketing it, (vii) the amount and date of any credits thereon, (viii) the court by which it was rendered and the case number, and (ix) when paid off or discharged in whole or in part, the time of payment or discharge and by whom made when there is more than one defendant. And in case of a judgment or decree by confession, the clerk shall also enter in such docket the time of day at which the same was confessed, or at which the same was received in his office to be entered of record. There shall also be shown on such book the name of the plaintiff's attorney, if any.

Error or omission in the entry of the address or addresses or the social security number or numbers of each party against whom judgment is rendered shall in no way affect the validity, finality or priority of the judgment docketed.

(Code 1950, § 8-377; 1973, c. 544; 1977, c. 617; 1982, c. 405; 1985, c. 171; 1988, c. 420; 1996, c. 427; 1997, c. 579.)

§ 16.1-69.48:1. Fees for services performed by judges or clerks of district courts in criminal or traffic cases.

A. Fees for services performed by the judges or clerks of district courts in criminal or traffic actions and proceedings shall be as follows and such fees shall be included in the taxed costs:

1. For processing a case of a misdemeanor or a traffic violation, including a case in which there has been written appearance and waiver of court hearing, and including swearing witnesses and taxing costs, twenty-eight dollars, and one dollar of the amount collected hereunder shall be forwarded to the State Treasurer for deposit in the Regional Criminal Justice Academy Training Fund as provided in § 9.1-106, to be used for financial support of the regional criminal justice training academies.

Assessment of this fee shall be based on: (i) an appearance for court hearing in which there has been a finding of guilty; (ii) a written appearance with waiver of court hearing and entry of guilty plea; (iii) for a defendant failing to appear, a trial in his or her absence resulting in a finding of guilty; or (iv) an appearance for court hearing in which the court requires that the defendant successfully complete traffic school or a driver improvement clinic, in lieu of a finding of guilty.

In addition to any other fee prescribed by this subsection, a fee of ten dollars shall be taxed as costs whenever a defendant fails to appear, unless, after a hearing requested by such person, good cause is shown for such failure to appear. No defendant with multiple charges arising from a single incident shall be taxed the fee provided in this subsection more than once for a single appearance or trial in absence related to that incident. A defendant with charges which arise from separate incidents shall be taxed a fee for each incident even if the charges from the multiple incidents are disposed of in a single appearance or trial in absence.

2. For processing any check tendered in a case of traffic violation that has been returned unpaid by any banking institution, such fee as is determined pursuant to § 19.2-353.3.

B. Three dollars of the amount collected hereunder shall be collected for the benefit of and paid to the Virginia Crime Victim-Witness Fund as provided in § 19.2-11.3 and one dollar of the amount collected hereunder shall be forwarded to the State Treasurer for deposit in the Regional Criminal Justice Academy Training Fund as provided in § 9.1-106, to be used for financial support of the regional criminal justice training academies, irrespective of whether the defendant's case was processed as a violation of the Code of Virginia or as a violation of a local ordinance.

(Code 1950, § 14-132; 1956, c. 556; 1956, Ex. Sess., c. 10; 1958, c. 286; 1960, cc. 278, 368; 1962, c. 546; 1964, c. 386, § 14.1-123; 1968, c. 639; 1970, c. 553; 1975, c. 591; 1977, c. 585; 1978, c. 605; 1979, cc. 525, 594; 1982, cc. 494, 569; 1983, c. 499; 1989, c. 595; 1990, c. 971; 1992, cc. 555, 558; 1995, c. 371; 1996, cc. 62, 976; 1997, c. 215; 1998, c. 872.)

§ 16.1-278.8. Delinquent juveniles.

A. If a juvenile is found to be delinquent, except where such finding involves a refusal to take a blood or breath test in violation of § 18.2-268.2 or a similar ordinance, the juvenile

court or the circuit court may make any of the following orders of disposition for his supervision, care and rehabilitation:

1. Enter an order pursuant to the provisions of § 16.1-278;

2. Permit the juvenile to remain with his parent, subject to such conditions and limitations as the court may order with respect to the juvenile and his parent;

3. Order the parent of a juvenile living with him to participate in such programs, cooperate in such treatment or be subject to such conditions and limitations as the court may order and as are designed for the rehabilitation of the juvenile and his parent;

4. Defer disposition for a period of time not to exceed twelve months, after which time the charge may be dismissed by the judge if the juvenile exhibits good behavior during the period for which disposition is deferred;

4a. Defer disposition and place the juvenile in the temporary custody of the Department to attend a boot camp established pursuant to § 66-13 provided bed space is available for confinement and the juvenile (i) has been found delinquent for an offense which would be a Class 1 misdemeanor or felony if committed by an adult, (ii) has not previously been and is not currently being adjudicated delinquent or found guilty of a violent juvenile felony, (iii) has not previously attended a boot camp, (iv) has not previously been committed to and received by the Department, and (v) has had an assessment completed by the Department or its contractor concerning the appropriateness of the candidate for a boot camp. Upon the juvenile's withdrawal, removal or refusal to comply with the terms and conditions of participation in the program, he shall be brought before the court for a hearing at which the court may impose any other disposition as authorized by this section which could have been imposed at the time the juvenile was placed in the custody of the Department;

5. Without entering a judgment of guilty and with the consent of the juvenile and his attorney, defer disposition of the delinquency charge for a period not to exceed twelve months and place the juvenile on probation under such conditions and limitations as the court may prescribe. Upon fulfillment of the terms and conditions, the court shall discharge the juvenile and dismiss the proceedings against him. Discharge and dismissal under these provisions shall be without adjudication of guilt;

6. Order the parent of a juvenile with whom the juvenile does not reside to participate in such programs, cooperate in such treatment or be subject to such conditions and limitations as the court may order and as are designed for the rehabilitation of the juvenile where the court determines this participation to be in the best interest of the juvenile and other parties concerned and where the court determines it reasonable to expect the parent to be able to comply with such order;

7. Place the juvenile on probation under such conditions and limitations as the court may prescribe;

7a. Place the juvenile on probation and order treatment for the abuse or dependence on alcohol or drugs in a program licensed by the Department of Mental Health, Mental Retardation and Substance Abuse Services for the treatment of juveniles for substance abuse provided that (i) the juvenile has received a substance abuse screening and assessment pursuant to § 16.1-273 and that such assessment reasonably indicates that the commission of the offense was motivated by, or closely related to, the habitual use of alcohol or drugs and indicates that the juvenile is in need of treatment for this condition; (ii) the juvenile has not previously been and is not currently being adjudicated for a

violent juvenile felony; and (iii) such facility is available. Upon the juvenile's withdrawal, removal, or refusal to comply with the conditions of participation in the program, he shall be brought before the court for a hearing at which the court may impose any other disposition authorized by this section. The court shall review such placements at thirty-day intervals;

8. Impose a fine not to exceed $500 upon such juvenile;

9. Suspend the motor vehicle and driver's license of such juvenile or impose a curfew on the juvenile as to the hours during which he may operate a motor vehicle. Any juvenile whose driver's license is suspended may be referred for an assessment and subsequent referral to appropriate services, upon such terms and conditions as the court may order. The court, in its discretion and upon a demonstration of hardship, may authorize the use of a restricted permit to operate a motor vehicle by any juvenile who enters such program for any of the purposes set forth in subsection E of § 18.2-271.1 or for travel to and from school. The restricted permit shall be issued in accordance with the provisions of such subsection. However, only an abstract of the court order which identifies the juvenile and the conditions under which the restricted license is to be issued shall be sent to the Department of Motor Vehicles.

If a curfew is imposed, the juvenile shall surrender his driver's license, which shall be held in the physical custody of the court during any period of curfew restriction. The court shall send an abstract of any order issued under the provisions of this section to the Department of Motor Vehicles, which shall preserve a record thereof. Notwithstanding the provisions of Article 12 (§ 16.1-299 et seq.) of this chapter or the provisions of Title 46.2, this record shall be available only to all law-enforcement officers, attorneys for the Commonwealth and courts. A copy of the court order, upon which shall be noted all curfew restrictions, shall be provided to the juvenile and shall contain such information regarding the juvenile as is reasonably necessary to identify him. The juvenile may operate a motor vehicle under the court order in accordance with its terms.

Any juvenile who operates a motor vehicle in violation of any restrictions imposed pursuant to this section shall be guilty of a violation of § 46.2-301.

The Department of Motor Vehicles shall refuse to issue a driver's license to any juvenile denied a driver's license until such time as is stipulated in the court order or until notification by the court of withdrawal of the order imposing the curfew;

10. Require the juvenile to make restitution or reparation to the aggrieved party or parties for actual damages or loss caused by the offense for which the juvenile was found to be delinquent;

11. Require the juvenile to participate in a public service project under such conditions as the court prescribes;

12. In case of traffic violations, impose only those penalties which are authorized to be imposed on adults for such violations. However, for those violations punishable by confinement if committed by an adult, confinement shall be imposed only as authorized by this title;

13. Transfer legal custody to any of the following:

a. A relative or other individual who, after study, is found by the court to be qualified to receive and care for the juvenile;

b. A child welfare agency, private organization or facility which is licensed or otherwise authorized by law to receive and provide care for such juvenile. The court shall

not transfer legal custody of a delinquent juvenile to an agency, organization or facility outside of the Commonwealth without the approval of the Director; or

c. The local board of social services of the county or city in which the court has jurisdiction or, at the discretion of the court, to the local board of the county or city in which the juvenile has residence if other than the county or city in which the court has jurisdiction. The board shall accept the juvenile for care and custody, provided that it has been given reasonable notice of the pendency of the case and an opportunity to be heard. However, in an emergency in the county or city in which the court has jurisdiction, such local board may be required to temporarily accept a juvenile for a period not to exceed fourteen days without prior notice or an opportunity to be heard if the judge entering the placement order describes the emergency and the need for such temporary placement in the order. Nothing in this subdivision shall prohibit the commitment of a juvenile to any local board of social services in the Commonwealth when such local board consents to the commitment. The board to which the juvenile is committed shall have the final authority to determine the appropriate placement for the juvenile. Any order authorizing removal from the home and transferring legal custody of a juvenile to a local board of social services as provided in this subdivision shall be entered only upon a finding by the court that reasonable efforts have been made to prevent removal and that continued placement in the home would be contrary to the welfare of the juvenile, and the order shall so state;

14. Commit the juvenile to the Department of Juvenile Justice, but only if he is eleven years of age or older and the current offense is (i) an offense which would be a felony if committed by an adult, (ii) an offense which would be a Class 1 misdemeanor if committed by an adult and the juvenile has previously been found to be delinquent based on an offense which would be a felony if committed by an adult, or (iii) an offense which would be a Class 1 misdemeanor if committed by an adult and the juvenile has previously been adjudicated delinquent on three occasions for offenses which would be Class 1 misdemeanors if committed by an adult;

15. Impose the penalty authorized by § 16.1-284;

16. Impose the penalty authorized by § 16.1-284.1;

17. Impose the penalty authorized by § 16.1-285.1;

18. Impose the penalty authorized by § 16.1-278.9; or

19. Require the juvenile to participate in a gang-activity prevention program including, but not limited to, programs funded under the Virginia Juvenile Community Crime Control Act pursuant to § 16.1-309.7, if available, when a juvenile has been found delinquent of any of the following violations: §§ 18.2-51, 18.2-51.1, 18.2-52, 18.2-53, 18.2-55, 18.2-56, 18.2-57, 18.2-57.2, 18.2-121, 18.2-127, 18.2-128, 18.2-137, 18.2-138, 18.2-146, or § 18.2-147, or any violation of a local ordinance adopted pursuant to § 18.2-138.1.

B. If the court finds a juvenile delinquent of any of the following offenses, the court shall require the juvenile to make at least partial restitution or reparation for any property damage, for loss caused by the offense, or for actual medical expenses incurred by the victim as a result of the offense: §§ 18.2-51, 18.2-51.1, 18.2-52, 18.2-53, 18.2-55, 18.2-56, 18.2-57, 18.2-57.2, 18.2-121, 18.2-127, 18.2-128, 18.2-137, 18.2-138, 18.2-146, or § 18.2-147; or for any violation of a local ordinance adopted pursuant to § 18.2-138.1. The

court shall further require the juvenile to participate in a community service project under such conditions as the court prescribes.

(1991, c. 534; 1992, c. 830; 1994, cc. 859, 949; 1996, cc. 755, 914; 1997, c. 318; 1999, cc. 350, 622; 2000, cc. 954, 978, 981, 988, 1020, 1041.)

§ 16.1-302.1. Right of victim or representative to attend certain proceedings; notice of hearings.

During proceedings involving petitions or warrants alleging that a juvenile is delinquent, including proceedings on appeal, a victim may remain in the courtroom and shall not be excluded unless the court determines in its discretion, that the presence of the victim would impair the conduct of a fair trial. In any such case involving a minor victim, the court may permit an adult chosen by the minor victim to be present in the courtroom during the proceedings in addition to or in lieu of the minor's parent or guardian.

The attorney for the Commonwealth shall give prior notice of any such proceedings and changes in the scheduling thereof to any known victim and to any known adult chosen in accordance with this section by a minor victim at the address or telephone number, or both, provided in writing by such persons.

(1996, cc. 755, 914; 2000, c. 339.)

§ 17.1-275. Fees collected by clerks of circuit courts; generally.

A. A clerk of a circuit court shall, for services performed by virtue of his office, charge the following fees:

1. When a writing is admitted to record under Chapter 2 (§ 17.1-200 et seq.) of this title, or Chapter 5 (§ 55-80 et seq.) or Chapter 6 (§ 55-106 et seq.) of Title 55, for everything relating to it, except the recording in the proper book; for receiving proof of acknowledgments, entering orders, endorsing clerk's certificate, and when required, embracing it in a list for the commissioner of the revenue, one dollar.

2. For recording and indexing in the proper book any writing and all matters therewith, or for recording and indexing anything not otherwise provided for, ~~thirteen dollars, including the fee of one dollar set forth in subdivision A 1 for up to four pages and one dollar for each page over four pages, and for recording plats too large to be recorded in the deed books, and for each sheet thereof,~~fifteen dollars for an instrument or document consisting of ten or fewer pages or sheets; thirty dollars for an instrument or document consisting of 11 through 30 pages or sheets; and fifty dollars for an instrument or document consisting of 31 ~~thirteen dollars.~~or more pages or sheets. This fee shall be in addition to the fee for recording a deed or other instrument recorded in conjunction with such plat sheet or sheets including the fee of one dollar set forth in subdivision A 1. Only a single fee as authorized by this subdivision shall be charged for recording a certificate of satisfaction that releases the original deed of trust and any corrected or revised deeds of trust.~~In addition, a fee of one dollar shall be charged for indexing any document for each name indexed exceeding a total of ten in number.~~ One dollar and fifty cents of the fee collected for recording and indexing shall be designated for use in preserving the

permanent records of the circuit courts. The sum collected for this purpose shall be administered by The Library of Virginia in cooperation with the circuit court clerks.

3. For appointing and qualifying any personal representative, committee, trustee, guardian, or other fiduciary, in addition to any fees for recording allowed by this section, twenty dollars for estates not exceeding $50,000, twenty-five dollars for estates not exceeding $100,000 and thirty dollars for estates exceeding $100,000. No fee shall be charged for estates of $5,000 or less.

4. For entering and granting and for issuing any license, other than a marriage license or a hunting and fishing license, and administering an oath when necessary, ten dollars.

5. For issuing a marriage license, attaching certificate, administering or receiving all necessary oaths or affidavits, indexing and recording, ten dollars.

6. For making out any bond, other than those under § 17.1-267 or subdivision A 4 of this section, administering all necessary oaths and writing proper affidavits, three dollars.

7. For all services rendered by the clerk in any garnishment or attachment proceeding, the clerk's fee shall be fifteen dollars in cases not exceeding $500 and twenty-five dollars in all other cases.

8. For making out a copy of any paper or record to go out of the office, which is not otherwise specifically provided for, a fee of fifty cents for each page. However, there shall be no charge to the recipient of a final order or decree to send an attested copy to such party.

9. For annexing the seal of the court to any paper, writing the certificate of the clerk accompanying it, the clerk shall charge two dollars and for attaching the certificate of the judge, if the clerk is requested to do so, the clerk shall charge an additional fifty cents.

10. In any case in which a person is convicted of a violation of any provision of Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, the clerk shall assess a fee of $150 for each felony conviction and each felony disposition under § 18.2-251 which shall be taxed as costs to the defendant and shall be paid into the Drug Offender Assessment Fund.

11. a. Upon conviction in misdemeanor cases, the clerk shall charge the defendant twenty-six dollars in each case. Sums shall be collected for and paid to the benefit of the Virginia Crime Victim-Witness Fund as provided for in § 19.2-11.3 and one dollar of the amount collected hereunder shall be forwarded to the State Treasurer for deposit in the Regional Criminal Justice Academy Training Fund as provided in § 9.1-106, to be used for financial support of the regional criminal justice training academies, irrespective of whether the defendant was convicted of a misdemeanor chargeable under the Code of Virginia or pursuant to a local ordinance.

b. In addition, in each case in which a person is convicted of a violation of any provision of Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, the clerk shall assess (i) a fee of seventy-five dollars for each misdemeanor conviction which shall be taxed as costs to the defendant and shall be paid into the Drug Offender Assessment Fund, unless such fee has been assessed and taxed in the general district court as provided in § 16.1-69.48:3 and (ii) a fee of $100 per case for any forensic laboratory analysis performed for use in prosecution of such violation which shall be taxed as costs to the defendant and shall be paid into the general fund of the state treasury.

c. In addition, for each misdemeanor case the clerk shall collect and tax as costs (i) the fees of the attorneys for the Commonwealth as provided for in § 15.2-1627.3, (ii) the compensation of court-appointed counsel as provided in § 19.2-163, (iii) the fees of the public defenders as provided for in § 19.2-163.2, (iv) the additional costs imposed under § 19.2-368.18 to be deposited into the Criminal Injuries Compensation Fund, and (v) in any court in which electronic devices are used for the purpose of recording testimony, a sum not to exceed five dollars for each day or part of a day of the trial to be paid by the clerk into a special fund to be used for the purpose of repairing, replacing or supplementing such electronic devices, or if a sufficient amount is available, to pay the purchase price of such devices in whole or in part. For the purpose of this subdivision, repairing shall include maintenance or service contracts.

d. In addition, a fee of twelve dollars shall be charged to a defendant found guilty in a criminal case in the circuit court as costs for (i) serving a warrant or summons other than on a witness when no arrest is made or (ii) making an arrest on a felony or misdemeanor charge, when such services are provided by the sheriff.

12. Upon the defendant's being required to successfully complete traffic school or a driver improvement clinic in lieu of a finding of guilty, the court shall charge the defendant fees and costs as if he had been convicted.

13. In all actions at law the clerk's fee chargeable to the plaintiff shall be fifty dollars in cases not exceeding $50,000, $100 in cases not exceeding $100,000, and $150 in cases exceeding $100,000; and in condemnation cases, a fee of twenty-five dollars, to be paid by the plaintiff at the time of instituting the action, this fee to be in lieu of any other fees. There shall be no fee charged for the filing of a cross-claim or setoff in any pending action. However, the fees prescribed by this subdivision shall be charged upon the filing of a counterclaim. The fees prescribed above shall be collected upon the filing of papers for the commencement of civil actions. This subdivision shall not be applicable to cases filed in the Supreme Court of Virginia.

13a. For the filing of any petition seeking court approval of a settlement where no action has yet been filed, the clerk's fee, chargeable to the petitioner, shall be fifty dollars, to be paid by the petitioner at the time of filing the petition.

14. In addition to the fees chargeable for actions at law, for the costs of proceedings for judgments by confession under §§ 8.01-432 through 8.01-440, the clerk shall tax as costs (i) the cost of registered or certified mail, (ii) the statutory writ tax, in the amount required by law to be paid on a suit for the amount of the confessed judgment, (iii) for the sheriff for serving each copy of the order entering judgment, twelve dollars, and (iv) for docketing the judgment and issuing executions thereon, the same fees as prescribed in subdivision A 17.

15. For qualifying notaries public, including the making out of the bond and any copies thereof, administering the necessary oaths, and entering the order, ten dollars.

16. For each habeas corpus proceeding, the clerk shall receive ten dollars for all services required thereunder. This subdivision shall not be applicable to such suits filed in the Supreme Court of Virginia.

17. For docketing and indexing a judgment from any other court of this Commonwealth, for docketing and indexing a judgment in the new name of a judgment debtor pursuant to the provisions of § 8.01-451, but not when incident to a divorce, for noting and filing the assignment of a judgment pursuant to § 8.01-452, a fee of five dollars; and for issuing an

abstract of any recorded judgment, when proper to do so, a fee of five dollars; and for filing, docketing, indexing and mailing notice of a foreign judgment, a fee of twenty dollars.

18. For all services rendered by the clerk in any court proceeding for which no specific fee is provided by law, the clerk shall charge ten dollars, to be paid by the party filing said papers at the time of filing; however, this subdivision shall not be applicable in a divorce cause prior to and including the entry of a decree of divorce from the bond of matrimony.

19. For receiving and processing an application for a tax deed, ten dollars.

20. For all services rendered by the clerk in any condemnation proceeding instituted by the Commonwealth, twenty-five dollars.

21. For making the endorsements on a forthcoming bond and recording the matters relating to such bond pursuant to the provisions of § 8.01-529, one dollar.

22. For all services rendered by the clerk in any proceeding pursuant to § 57-8 or § 57-15, ten dollars.

23. For preparation and issuance of a subpoena duces tecum, five dollars.

24. For all services rendered by the clerk in matters under § 8.01-217 relating to change of name, twenty dollars; however, this subdivision shall not be applicable in cases where the change of name is incident to a divorce.

25. For providing court records or documents on microfilm, per frame, ten cents.

26. In all chancery causes, the clerk's fee chargeable to the plaintiff shall be fifty dollars to be paid by the plaintiff at the time of instituting the suit, which shall include the furnishing of a duly certified copy of the final decree. However, no fee shall be charged for the filing of a cross-bill in any pending suit. In divorce cases, when there is a merger of a divorce of separation a mensa et thoro into a decree of divorce a vinculo, the above mentioned fee shall include the furnishing of a duly certified copy of both such decrees.

27. For the acceptance of credit cards in lieu of money to collect and secure all fees, <u>including filing fees,</u> fines, restitution, forfeiture, penalties and costs ~~in accordance with § 19.2-353.3~~, the clerk shall collect a service charge of four percent of the amount paid.

28. For the return of any check unpaid by the financial institution on which it was drawn or notice is received from the credit card issuer that payment will not be made for any reason, the clerk shall collect, if allowed by the court, a fee of twenty dollars or ten percent of the amount to be paid, whichever is greater, in accordance with § 19.2-353.3.

29. For all services rendered, except in cases in which costs are assessed pursuant to §§ 17.1-275.1, 17.1-275.2, 17.1-275.3, or § 17.1-275.4, in an adoption proceeding, a fee of twenty dollars, in addition to the fee imposed under § 63.1-219.53, to be paid by the petitioner or petitioners.

30. For issuing a duplicate license for one lost or destroyed as provided in § 29.1-334, a fee in the same amount as the fee for the original license.

31. For the filing of any petition as provided in §§ 33.1-124, 33.1-125 and 33.1-129, a fee of five dollars to be paid by the petitioner; and for the recordation of a certificate or copy thereof, as provided for in § 33.1-122, as well as for any order of the court relating thereto, the clerk shall charge the same fee as for recording a deed as provided for in this section, to be paid by the party upon whose request such certificate is recorded or order is entered.

32. For making up, certifying and transmitting original record pursuant to the Rules of the Supreme Court, including all papers necessary to be copied and other services rendered, except in cases in which costs are assessed pursuant to §§ 17.1-275.1, 17.1-275.2, 17.1-275.3, or § 17.1-275.4, a fee of twenty dollars.
33. For issuance of hunting and trapping permits in accordance with § 10.1-1154, twenty-five cents.
34. For filings, etc., under the Uniform Federal Lien Registration Act (§ 55-142.1 et seq.), the fees shall be as prescribed in that Act.
35. For filing the appointment of a resident agent for a nonresident property owner in accordance with § 55-218.1, a fee of one dollar.
36. ~~For filing power of attorney for service of process, or resignation or revocation thereof, in accordance with § 59.1-71, a fee of twenty-five cents.~~[Repealed_.
37. For recordation of certificate and registration of names of nonresident owners in accordance with § 59.1-74, a fee of ten dollars.
38. For maintaining the information required under the Overhead High Voltage Line Safety Act (§ 59.1-406 et seq.), the fee as prescribed in § 59.1-411.
39. For lodging, indexing and preserving a will in accordance with § 64.1-56, a fee of two dollars.
40. For filing a financing statement in accordance with § ~~8.9-403,~~8.9A-505, the fee shall be as prescribed under ~~that section.~~§ 8.9A-525.
41. For filing a termination statement in accordance with § ~~8.9-404,~~8.9A-513, the fee shall be as prescribed under ~~that section.~~§ 8.9A-525.
42. For filing assignment of security interest in accordance with § ~~8.9-405,~~8.9A-514, the fee shall be as prescribed under ~~that section.~~§ 8.9A-525.
43. For filing a petition as provided in §§ 37.1-134.7 and 37.1-134.17, the fee shall be ten dollars.
44. For issuing any execution, and recording the return thereof, a fee of $1.50.
45. For the preparation and issuance of a summons for interrogation by an execution creditor, a fee of five dollars. If there is no outstanding execution, and one is requested herewith, the clerk shall be allowed an additional fee of $1.50, in accordance with subdivision A 44.
B. In accordance with § 17.1-281, the clerk shall collect fees under subdivisions A 7, 10, 11, 13, 16, 18 if applicable, 20, 22, 24, 26, 29 and 31 to be designated for courthouse construction, renovation or maintenance.
C. In accordance with § 17.1-278, the clerk shall collect fees under subdivisions A 7, 13, 16, 18 if applicable, 20, 22, 24, 26, 29 and 31 to be designated for services provided for the poor, without charge, by a nonprofit legal aid program.
D. In accordance with § 9.1-105, the clerk shall collect fees under subdivisions A 10 and 11 to be designated for the Intensified Drug Enforcement Jurisdiction Fund.
E. In accordance with § 42.1-70, the clerk shall collect fees under subdivisions A 7, 13, 16, 18 if applicable, 20, 22, 24, 26, 29 and 31 to be designated for public law libraries.
F. The provisions of this section shall control the fees charged by clerks of circuit courts for the services above described.
(Code 1950, § 14-123, p. 614; 1952, c. 146; 1954, c. 138; 1956, c. 217; 1964, c. 386, § 14.1-112; 1966, c. 217; 1970, c. 522; 1971, Ex. Sess., c. 95; 1972, cc. 626, 627, 647; 1973, c. 159; 1974, cc. 370, 523; 1975, c. 226; 1976, c. 344; 1977, cc. 449, 463;

1978, c. 502; 1980, c. 145; 1983, c. 103; 1984, cc. 225, 356; 1985, cc. 94, 201; 1986, c. 538; 1988, cc. 49, 52; 1989, c. 595; 1990, cc. 88, 738, 971; 1992, c. 784; 1993, cc. 95, 299, 386; 1994, cc. 64, 432, 498, 842; 1995, cc. 51, 371, 440, 463, 525, § 14.1-111.1; 1996, cc. 344, 976; 1997, cc. 215, 921; 1998, cc. 783, 840, 872; 1999, cc. 9, 1003; 2000, cc. 826, 830; 2001, cc. 481, 496, 501, 836.)

§ 19.2-11.3. Virginia Crime Victim-Witness Fund.

There is hereby established the Virginia Crime Victim-Witness Fund as a special nonreverting fund to be administered by the Department of Criminal Justice Services to support victim and witness services that meet the minimum standards prescribed for such programs under § 19.2-11.1. Three dollars collected pursuant to subdivisions A 10 and A 11 of § 17.1-275 and to subdivision A 1 of § 16.1-69.48:1 shall be deposited into the state treasury to the credit of this Fund. The Fund shall be distributed according to grant procedures adopted pursuant to § 9.1-104 and shall be established on the books of the Comptroller. Any funds remaining in such Fund at the end of the biennium shall not revert to the general fund, but shall remain in the Fund. Interest earned on the Fund shall be credited to the Fund.

(1995, c. 371.)

§ 19.2-11.4. Establishment of victim-offender reconciliation program.

A. Any Crime Victim and Witness Assistance Program may establish a victim-offender reconciliation program to provide an opportunity after conviction for a victim, at his request and upon the subsequent agreement of the offender, to:

1. Meet with the offender in a safe, controlled environment;

2. Give to the offender, either orally or in writing, a summary of the financial, emotional, and physical effects of the offense on the victim or the victim's family; and

3. Discuss a proposed restitution agreement which may be submitted for consideration by the sentencing court for damages incurred by the victim as a result of the offense.

B. If the victim chooses to participate in a victim-offender reconciliation program under this section, the victim shall execute a waiver releasing the Crime Victim and Witness Assistance Program, attorney for the offender and the attorney for the Commonwealth from civil and criminal liability for actions taken by the victim or offender as a result of participation by the victim or the offender in a victim-offender reconciliation program.

C. A victim shall not be required to participate in a victim-offender reconciliation program under this section.

D. The failure of any person to participate in a reconciliation program pursuant to this section shall not be used directly or indirectly at sentencing.

(1995, c. 628.)

§ 19.2-120. Admission to bail.

Prior to conducting any hearing on the issue of bail, release or detention, the judicial officer shall, to the extent feasible, obtain the person's criminal history.

A. A person who is held in custody pending trial or hearing for an offense, civil or criminal contempt, or otherwise shall be admitted to bail by a judicial officer, unless there is probable cause to believe that:

1. He will not appear for trial or hearing or at such other time and place as may be directed, or

2. His liberty will constitute an unreasonable danger to himself or the public.

B. The judicial officer shall presume, subject to rebuttal, that no condition or combination of conditions will reasonably assure the appearance of the person or the safety of the public if the person is currently charged with:

1. An act of violence as defined in § 19.2-297.1;

2. An offense for which the maximum sentence is life imprisonment or death;

3. A violation of §§ 18.2-248, 18.2-248.01, 18.2-255 or § 18.2-255.2 involving a Schedule I or II controlled substance if (i) the maximum term of imprisonment is ten years or more and the person was previously convicted of a like offense or (ii) the person was previously convicted as a "drug kingpin" as defined in § 18.2-248;

4. A violation of §§ 18.2-308.1, 18.2-308.2, or § 18.2-308.4 and which relates to a firearm and provides for a minimum, mandatory sentence;

5. Any felony, if the person has been convicted of two or more offenses described in subdivision 1 or 2, whether under the laws of this Commonwealth or substantially similar laws of the United States;

6. Any felony committed while the person is on release pending trial for a prior felony under federal or state law or on release pending imposition or execution of sentence or appeal of sentence or conviction; or

7. An offense listed in subsection B of § 18.2-67.5:2 and the person had previously been convicted of an offense listed in § 18.2-67.5:2 and the judicial officer finds probable cause to believe that the person who is currently charged with one of these offenses committed the offense charged.

C. The court shall consider the following factors and such others as it deems appropriate in determining, for the purpose of rebuttal of the presumption against bail described in subsection B, whether there are conditions of release that will reasonably assure the appearance of the person as required and the safety of the public:

1. The nature and circumstances of the offense charged;

2. The history and characteristics of the person, including his character, physical and mental condition, family ties, employment, financial resources, length of residence in the community, community ties, past conduct, history relating to drug or alcohol abuse, criminal history, and record concerning appearance at court proceedings; and

3. The nature and seriousness of the danger to any person or the community that would be posed by the person's release.

D. The judicial officer shall inform the person of his right to appeal from the order denying bail or fixing terms of bond or recognizance consistent with § 19.2-124.

(1975, c. 495; 1978, c. 755; 1979, c. 649; 1987, c. 390; 1991, c. 581; 1993, c. 636; 1996, c. 973; 1997, cc. 6, 476; 1999, cc. 829, 846; 2000, c. 797.)

Note: Underlined text and ~~struck-through~~ text indicate amendments made during the 2001 session of the General Assembly

§ 19.2-121. Fixing terms of bail.

If the person is admitted to bail, the terms thereof shall be such as, in the judgment of any official granting or reconsidering the same, will be reasonably fixed to assure the appearance of the accused and to assure his good behavior pending trial. The judicial officer shall take into account (i) the nature and circumstances of the offense; (ii) whether a firearm is alleged to have been used in the offense; (iii) the weight of the evidence; (iv) the financial resources of the accused or juvenile and his ability to pay bond; (v) the character of the accused or juvenile including his family ties, employment or involvement in education; (vi) his length of residence in the community; (vii) his record of convictions; (viii) his appearance at court proceedings or flight to avoid prosecution or failure to appear at court proceedings; (ix) whether the person is likely to obstruct or attempt to obstruct justice, or threaten, injure, or intimidate, or attempt to threaten, injure, or intimidate a prospective witness, juror, or victim; and (x) any other information available which the court considers relevant to the determination of whether the accused or juvenile is unlikely to appear for court proceedings.

In any case where the accused has appeared and otherwise met the conditions of bail, no bond therefor shall be used to satisfy fines and costs unless agreed to by the person who posted such bond.

(1975, c. 495; 1978, c. 755; 1980, c. 190; 1991, c. 581; 1992, c. 576; 1993, c. 636; 1999, cc. 829, 846.)

§ 19.2-123. Release of accused on secured or unsecured bond or promise to appear; conditions of release.

A. Any person arrested for a felony who has previously been convicted of a felony, or who is presently on bond for an unrelated arrest in any jurisdiction, or who is on probation or parole, may be released only upon a secure bond. This provision may be waived with the approval of the judicial officer and with the concurrence of the attorney for the Commonwealth or the attorney for the county, city or town. Subject to the foregoing, when a person is arrested for either a felony or a misdemeanor, any judicial officer may impose any one or any combination of the following conditions of release:

1. Place the person in the custody and supervision of a designated person, organization or pretrial services agency which, for the purposes of this section, shall not include a court services unit established pursuant to § 16.1-233;

2. Place restrictions on the travel, association or place of abode of the person during the period of release and restrict contacts with household members for a period not to exceed seventy-two hours;

2a. Require the execution of an unsecured bond;

3. Require the execution of a secure bond which at the option of the accused shall be satisfied with sufficient solvent sureties, or the deposit of cash in lieu thereof. Only the actual value of any interest in real estate or personal property owned by the proposed surety shall be considered in determining solvency and solvency shall be found if the

value of the proposed surety's equity in the real estate or personal property equals or exceeds the amount of the bond;

3a. Require that the person do any or all of the following: (i) maintain employment or, if unemployed, actively seek employment; (ii) maintain or commence an educational program; (iii) avoid all contact with an alleged victim of the crime and with any potential witness who may testify concerning the offense; (iv) comply with a specified curfew; (v) refrain from possessing a firearm, destructive device, or other dangerous weapon; (vi) refrain from excessive use of alcohol, or use of any illegal drug or any controlled substance not prescribed by a health care provider; and (vii) submit to testing for drugs and alcohol until the final disposition of his case; or

4. Impose any other condition deemed reasonably necessary to assure appearance as required, and to assure his good behavior pending trial, including a condition requiring that the person return to custody after specified hours or be placed on home electronic incarceration pursuant to § 53.1-131.2.

Upon satisfaction of the terms of recognizance, the accused shall be released forthwith.

In addition, where the accused is a resident of a state training center for the mentally retarded, the judicial officer may place the person in the custody of the director of the state facility, if the director agrees to accept custody. Such director is hereby authorized to take custody of such person and to maintain him at the training center prior to a trial or hearing under such circumstances as will reasonably assure the appearance of the accused for the trial or hearing.

B. In any jurisdiction served by a pretrial services agency which offers a drug or alcohol screening or testing program approved for the purposes of this subsection by the chief general district court judge, any such person charged with a crime may be requested by such agency to give voluntarily a urine sample, submit to a drug or alcohol screening, or take a breath test for presence of alcohol. A sample may be analyzed for the presence of phencyclidine (PCP), barbiturates, cocaine, opiates or such other drugs as the agency may deem appropriate prior to any hearing to establish bail. The judicial officer and agency shall inform the accused or juvenile being screened or tested that test results shall be used by a judicial officer only at a bail hearing and only to determine appropriate conditions of release or to reconsider the conditions of bail at a subsequent hearing. All screening or test results, and any pretrial investigation report containing the screening or test results, shall be confidential with access thereto limited to judicial officers, the attorney for the Commonwealth, defense counsel, other pretrial service agencies, any criminal justice agency as defined in § 9.1-101 and, in cases where a juvenile is screened or tested, the parents or legal guardian or custodian of such juvenile. However, in no event shall the judicial officer have access to any screening or test result prior to making a bail release determination or to determining the amount of bond, if any. Following this determination, the judicial officer shall consider the screening or test results and the screening or testing agency's report and accompanying recommendations, if any, in setting appropriate conditions of release. In no event shall a decision regarding a release determination be subject to reversal on the sole basis of such screening or test results. Any accused or juvenile whose urine sample has tested positive for such drugs and who is admitted to bail may, as a condition of release, be ordered to refrain from use of alcohol or illegal drugs and may be required to be tested on a periodic basis until final disposition of his

case to ensure his compliance with the order. Sanctions for a violation of any condition of release, which violations shall include subsequent positive drug or alcohol test results or failure to report as ordered for testing, may be imposed in the discretion of the judicial officer and may include imposition of more stringent conditions of release, contempt of court proceedings or revocation of release. Any test given under the provisions of this subsection which yields a positive drug or alcohol test result shall be reconfirmed by a second test if the person tested denies or contests the initial drug or alcohol test positive result. The results of any drug or alcohol test conducted pursuant to this subsection shall not be admissible in any judicial proceeding other than for the imposition of sanctions for a violation of a condition of release.

C. [Repealed.]

D. Nothing in this section shall be construed to prevent an officer taking a juvenile into custody from releasing that juvenile pursuant to § 16.1-247. If any condition of release imposed under the provisions of this section is violated, a judicial officer may issue a capias or order to show cause why the recognizance should not be revoked.

(Code 1950, § 19.1-109.2; 1973, c. 485; 1975, c. 495; 1978, cc. 500, 755; 1979, c. 518; 1981, c. 528; 1984, c. 707; 1989, c. 369; 1991, cc. 483, 512, 581, 585; 1992, c. 576; 1993, c. 636; 1999, cc. 829, 846; 2000, cc. 885, 1020, 1041; 2001, c. 201.)

§ 19.2-124. Appeal from order denying bail or fixing terms of bond or recognizance.

A. If a judicial officer denies bail to a person, requires excessive bond, or fixes unreasonable terms of a recognizance under this article, the person may appeal therefrom successively to the next higher court or judge thereof, up to and including the Supreme Court of Virginia or any justice thereof where permitted by law.

B. If a court grants bail to a person or fixes a term of recognizance under this article over the objection of the attorney for the Commonwealth, the attorney for the Commonwealth may appeal therefrom successively to the next higher court or judge thereof, up to and including the Supreme Court of Virginia or any justice thereof.

(Code 1950, §§ 19.1-109.3, 19.1-112; 1960, c. 366; 1973, cc. 130, 485; 1975, c. 495; 1978, c. 755; 1984, c. 703; 1991, c. 581; 1999, cc. 829, 846.)

§ 19.2-132. Motion to increase amount of bond fixed by magistrate or clerk; when bond may be increased.

A. Although a person has been admitted to bail, if the amount of any bond is subsequently deemed insufficient, or the security taken inadequate, or if it appears that bail should have been denied, the attorney for the Commonwealth of the county or city in which the person is held for trial may, on reasonable notice to the person and to any surety on the bond of such person, move the court, or the appropriate judicial officer to increase the amount of such bond or to revoke bail. The court may, in accordance with subsection B, grant such motion and may require new or additional sureties therefor, or both or revoke bail. Any surety in a bond for the appearance of such person may take from his principal collateral or other security to indemnify such surety against liability.

The failure to notify the surety will not prohibit the court from proceeding with the bond hearing.

B. Subsequent to an initial appearance before any judicial officer where the conditions of bail have been determined, no person, after having been released on a bond, shall be subject to a motion to increase such bond or revoke bail unless (i) the person has violated a term or condition of his release, or is convicted of or arrested for a felony or misdemeanor, or (ii) the attorney for the Commonwealth presents evidence that incorrect or incomplete information regarding the person's family ties; employment; financial resources; length of residence in the community; record of convictions; record of appearance at court proceedings or flight to avoid prosecution or failure to appear at court proceedings; whether the person is likely to obstruct or attempt to obstruct justice, or threaten, injure, or intimidate, or attempt to threaten, injure, or intimidate, a prospective witness, juror, or victim; or other information relevant to the bond determination was relied upon by the court or magistrate establishing initial bond.

(Code 1950, § 19.1-120; 1960, c. 366; 1975, c. 495; 1978, c. 755; 1989, c. 519; 1991, c. 581; 1999, cc. 829, 846.)

§ 19.2-165.1. Payment of medical fees in certain criminal cases.

All medical fees involved in the gathering of evidence for all criminal cases where medical evidence is necessary to establish a crime has occurred and for cases involving abuse of children under the age of eighteen shall be paid by the Commonwealth out of the appropriation for criminal charges, provided that any medical evaluation, examination, or service rendered be performed by a physician or facility specifically designated by the attorney for the Commonwealth in the city or county having jurisdiction of such case for such a purpose. If no such physician or facility is reasonably available in such city or county, then the attorney for the Commonwealth may designate a physician or facility located outside and adjacent to such city or county.

Where there has been no prior designation of such a physician or facility, medical fees shall be paid out of the appropriation for criminal charges upon authorization by the attorney for the Commonwealth of the city or county having jurisdiction over the case. Such authorization may be granted prior to or within forty-eight hours after the medical evaluation, examination, or service rendered.

(1976, c. 292; 1982, c. 507; 1987, c. 330; 1997, c. 322; 1999, c. 853; 2000, c. 292.)

§ 19.2-305.2. Amount of restitution; enforcement.

A. The court, when ordering restitution pursuant to § 19.2-305.1, may require that such defendant, in the case of an offense resulting in damage to or loss or destruction of property of a victim of the offense (i) return the property to the owner or (ii) if return of the property is impractical or impossible, pay an amount equal to the greater of the value of the property at the time of the offense or the value of the property at the time of sentencing.

B. An order of restitution may be docketed as provided in § 8.01-446 when so ordered by the court or upon written request of the victim and may be enforced by a victim named in the order to receive the restitution in the same manner as a judgment in a civil action.

(1988, c. 679; 1989, c. 386.)

§ 19.2-305.4. When interest to be paid on award of restitution.

The court, when ordering restitution pursuant to § 19.2-305 or § 19.2-305.1, may provide in the order for interest on the amount so ordered from the date of the loss or damage at the rate specified in § 6.1-330.54. If the order requires interest and does not specify that the interest shall accrue from the date of the loss or damage, the interest shall automatically accrue from the date of the sentencing order.

(1996, c. 544; 2001, c. 122.)

§ 19.2-349. Responsibility for collections; clerks to report unsatisfied fines, etc.; duty of attorneys for Commonwealth; assistance by the office of the Attorney General.

A. The clerk of the circuit court and district court of every county and city shall submit to the judge of his court, the Department of Taxation, the State Compensation Board and the attorney for the Commonwealth of his county or city a monthly report of all fines, costs, forfeitures and penalties which are delinquent more than thirty days, including court-ordered restitution of a sum certain, imposed in his court for a violation of state law or a local ordinance which remain unsatisfied, including those which are delinquent in installment payments. The monthly report shall include the social security number or driver's license number of the defendant, if known, and such other information as the Department of Taxation and the Compensation Board deem appropriate. The Executive Secretary shall make the report required by this subsection on behalf of those clerks who participate in the Supreme Court's automated information system.

B. It shall be the duty of the attorney for the Commonwealth to cause proper proceedings to be instituted for the collection and satisfaction of all fines, costs, forfeitures, penalties and restitution. The attorney for the Commonwealth shall determine whether it would be impractical or uneconomical for such service to be rendered by the office of the attorney for the Commonwealth. If the defendant does not enter into an installment payment agreement under § 19.2-354, the attorney for the Commonwealth and the clerk may agree to a process by which collection activity may be commenced ~~ten~~fifteen days after judgment.

If the attorney for the Commonwealth does not undertake collection, he shall contract with (i) private attorneys or private collection agencies, (ii) enter into an agreement with a local governing body, or (iii) use the services of the Department of Taxation, upon such terms and conditions as may be established by guidelines promulgated by the Office of the Attorney General, the Executive Secretary of the Supreme Court with the Department of Taxation and the Compensation Board. If the attorney for the Commonwealth undertakes collection, he shall follow the procedures established by the Department of Taxation and the Compensation Board. Such guidelines

shall not supersede contracts between attorneys for the Commonwealth and private attorneys and collection agencies when active collection efforts are being undertaken. The fees of any private attorneys or collection agencies shall be paid on a contingency fee basis out of the proceeds of the amounts collected. However, in no event shall such attorney or collection agency receive a fee for amounts collected by the Department of Taxation under the Setoff Debt Collection Act (§ 58.1-520 et seq.).

C. The Department of Taxation and the State Compensation Board shall be responsible for the collection of any judgment which remains unsatisfied or does not meet the conditions of § 19.2-354. Persons owing such unsatisfied judgments or failing to comply with installment payment agreements under § 19.2-354 shall be subject to the delinquent tax collection provisions of Title 58.1. The Department of Taxation and the State Compensation Board shall establish procedures to be followed by clerks of courts, attorneys for the Commonwealth, other state agencies and any private attorneys or collection agents and may employ private attorneys or collection agencies, or engage other state agencies to collect the judgment. The Department of Taxation and the Commonwealth shall be entitled to deduct a fee for services from amounts collected for violations of local ordinances.

The Department of Taxation and the State Compensation Board shall annually report to the Governor and the General Assembly the total of fines, costs, forfeitures and penalties assessed, collected, and unpaid and those which remain unsatisfied or do not meet the conditions of § 19.2-354 by each circuit and district court. The report shall include the procedures established by the Department of Taxation and the State Compensation Board pursuant to this section and a plan for increasing the collection of unpaid fines, costs, forfeitures and penalties. The Auditor of Public Accounts shall annually report to the Governor, the Executive Secretary of the Supreme Court and the General Assembly as to the adherence of clerks of courts, attorneys for the Commonwealth and other state agencies to the procedures established by the Department of Taxation and the State Compensation Board.

(Code 1950, § 19.1-341.2; 1960, c. 366; 1975, c. 495; 1979, c. 469; 1983, cc. 415, 499; 1988, cc. 742, 750, 770, 852; 1991, c. 202; 1992, c. 623; 1993, c. 269; 1994, cc. 841, 945; 2001, c. 414.)

§ 19.2-353.3. Acceptance of checks and credit cards in lieu of money; additional fee.

Notwithstanding the provisions of § 19.2-353, personal checks and credit cards shall be accepted in lieu of money to collect and secure all fees, fines, restitution, forfeiture, penalties and costs collected for offenses tried in a district court, including motor vehicle violations, committed against the Commonwealth or against any county, city or town. Notwithstanding the provisions of § 19.2-353, personal checks shall be accepted in lieu of money to collect and secure all fees, fines, restitution, forfeiture, penalties and costs collected for offenses tried in a circuit court, including motor vehicle violations, committed against the Commonwealth or against any county, city or town. The clerk of any circuit court shall not be required to but may, in his discretion, accept credit card payment in lieu of money to collect and secure all fees, <u>including filing fees,</u> fines, restitution, forfeitures, penalties, and costs collected ~~for such offenses~~. The

Committee on District Courts shall devise a procedure for approving and accepting checks and credit cards that shall be accepted by the district courts. Court personnel shall not be held to be guarantors of the payment made in such manner and shall not be personally liable for any sums uncollected. The clerk of the court, in addition to any fees, fines, restitution, forfeiture, penalties or costs, may add to such payment a sum not to exceed four percent of the amount paid as a service charge for the acceptance of a credit card.

If a check is returned unpaid by the financial institution on which it is drawn or notice is received from the credit card issuer that payment will not be made, for any reason, the fees, fine, restitution, forfeiture, penalty or costs shall be treated as unpaid, and the court may pursue all available remedies to obtain payment. The clerk of the court to whom the dishonored check or credit card was tendered may impose a fee of twenty dollars or ten percent of the value of the payment, whichever is greater, in addition to the fine and costs already imposed.

The clerk of court may refuse acceptance of checks or credit cards of an individual if (i) he has been convicted of a violation of Chapter 6 (§ 18.2-168 et seq.) of Title 18.2 in which a check, credit card, or credit card information was used to commit the offense, (ii) he has previously tendered to the court a check which was not ultimately honored or a credit card or credit card information which did not ultimately result in payment by the credit card issuer, (iii) authorization of payment is not given by the bank or credit card issuer, (iv) the validity of the check or credit card cannot be verified, or (v) the payee of the check is other than the court.

(1979, c. 525; 1988, cc. 770, 852; 1990, c. 899; 1994, cc. 432, 841, 945; 1997, c. 819; 1998, cc. 720, 731; 2001, cc. 481, 501.)

§ 19.2-354. Authority of court to order payment of fine, costs, forfeitures, penalties or restitution in installments or upon other terms and conditions; community work in lieu of payment.

A. Whenever (i) a defendant, convicted of a traffic infraction or a violation of any criminal law of the Commonwealth or of any political subdivision thereof, or found not innocent in the case of a juvenile, is sentenced to pay a fine, restitution, forfeiture or penalty and (ii) the defendant is unable to make payment of the fine, restitution, forfeiture, or penalty and costs within ~~ten~~fifteen days of sentencing, the court shall order the defendant to pay such fine, restitution, forfeiture or penalty and any costs which the defendant may be required to pay in deferred payments or installments. The court may authorize the clerk to establish and approve the conditions of all deferred or installment payment agreements, pursuant to guidelines established by the court. As a condition of every such agreement, a defendant who enters into an installment or deferred payment agreement shall promptly inform the court of any change of mailing address during the term of the agreement. If the defendant is unable to make payment within ~~ten~~fifteen days of sentencing, the court may assess a one-time fee not to exceed ten dollars to cover the costs of management of the defendant's account until such account is paid in full. This one-time fee shall not apply to cases in which costs are assessed pursuant to §§ 17.1-275.1, 17.1-275.2, 17.1-275.3 or § 17.1-275.4. Installment or deferred payment

agreements shall include terms for payment if the defendant participates in a program as provided in subsection B or C. The court, if such sum or sums are not paid in full by the date ordered, shall proceed in accordance with § 19.2-358.

B. When a person sentenced to the Department of Corrections or a local correctional facility owes any fines, costs, forfeitures, restitution or penalties, he shall be required as a condition of participating in any work release, home/electronic incarceration or nonconsecutive days program as set forth in §§ 53.1-60, 53.1-131, 53.1-131.1 or § 53.1-131.2 to either make full payment or make payments in accordance with his installment or deferred payment agreement while participating in such program. If, after the person has an installment or deferred payment agreement, the person fails to pay as ordered, his participation in the program may be terminated until all fines, costs, forfeitures, restitution and penalties are satisfied. The Director of the Department of Corrections and any sheriff or other administrative head of any local correctional facility shall withhold such ordered payments from any amounts due to such person. Distribution of the money collected shall be made in the following order of priority to:

1. Meet the obligation of any judicial or administrative order to provide support and such funds shall be disbursed according to the terms of such order;

2. Pay any fines, restitution or costs as ordered by the court;

3. Pay travel and other such expenses made necessary by his work release employment or participation in an education or rehabilitative program, including the sums specified in § 53.1-150; and

4. Defray the offender's keep.

The balance shall be credited to the offender's account or sent to his family in an amount the offender so chooses.

The Board of Corrections shall promulgate regulations governing the receipt of wages paid to persons participating in such programs, the withholding of payments and the disbursement of appropriate funds.

C. The court shall establish a program to provide an option to any person upon whom a fine and costs have been imposed to discharge all or part of the fine or costs by earning credits for the performance of community service work before or after imprisonment. The program shall specify the rate at which credits are earned and provide for the manner of applying earned credits against the fine or costs. The court shall have such other authority as is reasonably necessary for or incidental to carrying out this program.

D. When the court has authorized deferred payment or installment payments, the clerk shall give notice to the defendant that upon his failure to pay as ordered he may be fined or imprisoned pursuant to § 19.2-358 and his privilege to operate a motor vehicle will be suspended pursuant to § 46.2-395.

E. The failure of the defendant to enter into a deferred payment or installment payment agreement with the court or the failure of the defendant to make payments as ordered by the agreement shall allow the Tax Commissioner to act in accordance with § 19.2-349 to collect all fines, costs, forfeitures and penalties.

(Code 1950, § 19.1-347.1; 1971 Ex. Sess., c. 250; 1975, c. 495; 1977, c. 585; 1982, c. 244; 1984, c. 32; 1986, c. 230; 1988, cc. 770, 852; 1994, cc. 841, 945; 1995, cc. 380, 441; 1996, c. 273; 1998, c. 831; 1999, c. 9; 2001, c. 414.)

§ 19.2-358. Procedure on default in deferred payment or installment payment of fine, costs, forfeiture, restitution or penalty.

A. When an individual obligated to pay a fine, costs, forfeiture, restitution or penalty defaults in the payment or any installment payment, the court upon the motion of the Commonwealth in the case of a conviction of a violation of a state law, or attorney for a locality or for the Commonwealth in the event of a conviction of a violation of a local law or ordinance, or upon its own motion, may require him to show cause why he should not be confined in jail or fined for nonpayment. A show cause proceeding shall not be required prior to issuance of a capias if an order to appear on a date certain in the event of nonpayment was issued pursuant to subsection A of § 19.2-354 and the defendant failed to appear.

B. Following the order to show cause or following a capias issued for a defendant's failure to comply with a court order to appear issued pursuant to subsection A of § 19.2-354, unless the defendant shows that his default was not attributable to an intentional refusal to obey the sentence of the court, or not attributable to a failure on his part to make a good faith effort to obtain the necessary funds for payment, or unless the defendant shows that any failure to appear was not attributable to an intentional refusal to obey the order of the court, the court may order the defendant confined as for a contempt for a term not to exceed sixty days or impose a fine not to exceed $500. The court may provide in its order that payment or satisfaction of the amounts in default at any time will entitle the defendant to his release from such confinement or, after entering the order, may at any time reduce the sentence for good cause shown, including payment or satisfaction of such amounts.

C. If it appears that the default is excusable under the standards set forth in subsection B hereof, the court may enter an order allowing the defendant additional time for payment, reducing the amount due or of each installment, or remitting the unpaid portion in whole or in part.

D. Nothing in this section shall be deemed to alter or interfere with the collection of fines by any means authorized for the enforcement of money judgments rendered in favor of the Commonwealth or any locality within the Commonwealth.

(Code 1950, § 19.1-347.6; 1973, c. 342; 1975, c. 495; 1977, c. 223; 1987, c. 238; 1988, cc. 770, 852; 1992, c. 485; 1994, c. 546.)

§ 66-25.2. Notice to be given prior to release of serious offenders.

Prior to the release of any juvenile committed pursuant to § 16.1-285.1, the Department shall have notice of the release delivered by first-class mail to the court which committed the juvenile, to the last known address of any victim of the offense for which the juvenile was committed if such victim has submitted a written request for notification to the Department, and to the sheriff, chief of police, and attorney for the Commonwealth of the jurisdiction (i) in which the offense occurred, (ii) in which the juvenile resided prior to commitment, and (iii) if different from (i) and (ii), in which the juvenile intends to reside subsequent to being released.

(1994, cc. 859, 949.)

Constitution of Virginia – Article I Section 8-A. Rights of victims of crime.

That in criminal prosecutions, the victim shall be accorded fairness, dignity and respect by the officers, employees and agents of the Commonwealth and its political subdivisions and officers of the courts and, as the General Assembly may define and provide by law, may be accorded rights to reasonable and appropriate notice, information, restitution, protection, and access to a meaningful role in the criminal justice process. These rights may include, but not be limited to, the following:

1. The right to protection from further harm or reprisal through the imposition of appropriate bail and conditions of release;

2. The right to be treated with respect, dignity and fairness at all stages of the criminal justice system;

3. The right to address the circuit court at the time sentence is imposed;

4. The right to receive timely notification of judicial proceedings;

5. The right to restitution;

6. The right to be advised of release from custody or escape of the offender, whether before or after disposition; and

7. The right to confer with the prosecution.

This section does not confer upon any person a right to appeal or modify any decision in a criminal proceeding, does not abridge any other right guaranteed by the Constitution of the United States or this Constitution, and does not create any cause of action for compensation or damages against the Commonwealth or any of its political subdivisions, any officer, employee or agent of the Commonwealth or any of its political subdivisions, or any officer of the court.

The amendment ratified November 5, 1996 and effective January 1, 1997----Added a new section (8-A).